

## The complaint

This complaint is about West Bromwich Building Society ('the Society') not allowing named account holders access to funds in their joint savings account. The account was held in the name of Mrs S and Ms S and Ms S held a Power of Attorney registered with the Society to act as representative for Mrs S.

Ms S brings the complaint in a dual capacity – as representative on behalf of Mrs S and on her own account as one of the named joint account holders.

## What happened

In 2018, Mrs S arranged a Lasting Power of Attorney ('LPA') naming Ms S and another person as attorneys able to act jointly and severally on her behalf.

In April 2023, Ms S complained to the Society when she was unable to transact on the joint account. The Society didn't uphold the complaint saying that it was aware there was a dispute involving Ms S and the other attorney named in the LPA. The Society said it had been contacted by the Office of the Public Guardian ('OPG') who had instructed Ms S and the other attorney to identify and separate out the funds belonging to Mrs S and move these to an account in Mrs S' sole name. The Society said it followed its internal procedure in these circumstances to help protect its customers and their funds.

In March 2025, the OPG notified Ms S of its intention to apply to the Court of Protection to ask for her removal as attorney. Subsequently, the Court revoked the LPA for Ms S and the other named attorney and appointed independent interim attorneys.

Ms S contacted the Society further about funds held in the account. The Society said that as it hadn't ever received confirmation that steps had been taken in line with the OPG's directions in July 2023 the joint account remained restricted with no withdrawals allowed.

This prompted Ms S to bring her complaint to us. She mainly felt the Society had acted unlawfully by refusing her access to funds in the joint account unless both named attorneys agreed – in direct contradiction of Mrs S' instructions in the LPA and Ms S' own right as one of the account holders to the money in the account. Ms S didn't feel it was right that she could only access her own money in the account with the other attorney's agreement and she said not being able to access the account meant Mrs S' care needs weren't being met.

Our investigator didn't think the Society had acted unfairly or unreasonably when it restricted Ms S' account access, saying they could appreciate why it had done this, given the longstanding and ongoing dispute between the attorneys and the OPG's instructions.

Ms S strongly disagrees, mainly saying that the Society acted without authorisation and unlawfully when it restricted her account access, referencing the Mental Capacity Act 2005 and the Society's contractual obligations. She also said there had been regulatory breaches and consumer protection failures including breach of the Financial Conduct Authority's requirements set out in Principle 6 (Treating Customers Fairly) and Principle 7 (Clear, Fair, and Not Misleading Communications) and the Society had failed to meet its Consumer Duty

obligations. She mentioned Human Rights implications and asked for an independent review of the complaint by an Ombudsman.

So it came to me to decide and I issued a provisional decision, saying as follows:

Ms S previously held a power of attorney that permitted her to deal with Mrs S' property and financial affairs which was registered with the Society. She was also an account holder in her own right. So I think it's important for me to distinguish between those two roles because the capacity in which she complains is a relevant consideration.

#### Ms S acting on her own behalf as a named account holder

Ms S first complained about being blocked from accessing money in the joint account in 2023. The Society sent her its final response on 12 May 2023 explaining why it wasn't upholding her complaint and setting out her referral rights to us. This letter included notice that Ms S had six months from the date of that letter to come to our service if she wanted us to consider her complaint, and the Society provided details about how to complain to us.

This complaint wasn't brought to us until 2025.

The Dispute Resolution (DISP) rules, as set out in the handbook of the Financial Conduct Authority say that we cannot consider a complaint if it's referred to us more than six months after the business sends its final response, and where the business doesn't consent to us looking at it – unless there are exceptional circumstances.

Here, the Society told us it didn't consent to us considering the complaint as it was referred to us after the six-month deadline and it didn't think there were any exceptional circumstances.

I've been provided with nothing to explain why Ms S didn't exercise her right to bring the complaint she makes in her personal capacity (about not being able to access her money) to us before the expiry of the six-month deadline on 12 November 2023. This means that we're not now able to consider the issues relating to the Society blocking Ms S' access to her own money in the joint account as she's brought that complaint to us too late and so she's time-barred from complaining to us in her personal capacity.

Our investigator took a different view so far as Mrs S was concerned – he felt there were exceptional circumstances relating to her situation and wrote to the Society explaining why. In response, the Society sent us its business file and engaged in dealing with Mrs S' complaint.

#### Ms S acting in her capacity as representative for Mrs S under the POA

I am satisfied that we can consider this complaint from the point of view of Mrs S. The Society hasn't raised any further objections and engaged with us in investigating Mrs S' complaint, brought to us on her behalf by Ms S in her capacity as representative for Mrs S.

The Society refused to allow Ms S to make withdrawals from the joint account held with Mrs S and it's my understanding that the other named attorney hadn't registered with the Society. So this meant that the Society effectively restricted Mrs S' access to the joint account because it seems she relied exclusively on her attorneys to conduct her financial affairs. I've thought carefully about the actions taken by the Society and whether it treated Mrs S in a fair and reasonable way.

In coming to my decision, I've taken into account the representations submitted by Ms S in her capacity as representative for Mrs S (even if she can't advance those points on her own behalf). And whilst I may not address every single point raised and I've summarised much of what Ms S has said in my own words, it doesn't mean I haven't considered all the evidence and what's been said – only that I haven't needed to specifically refer to everything in the same detail as Ms S in order to reach a decision on Mrs S' complaint.

Our service is unable to make findings on whether or not something contravenes the Mental Capacity Act 2005 or amounts to breach of contract or is otherwise unlawful. This is because we are an informal alternative to the courts and only a judge can give a formal decision on whether or not the law has been broken. I have however taken into account the relevant law, including the Mental Capacity Act 2005, as well as regulatory requirements including FCA Principles and best industry practice when deciding whether or not the Society has acted in a fair and reasonable way here.

Although Ms S said she had originally opened the joint account in her sole name and added in Mrs S later as a joint account holder, this makes no difference. Once Mrs S became a joint account holder, the money in the account belonged to both Mrs S and Ms S.

The Society must comply with its legal and regulatory obligations which include protecting customers from financial harm. Here the Society had been made aware in early 2023 that there was a dispute between Mrs S' attorneys that might impact on Mrs S' financial circumstances and it had reason to think that Mrs S' money in the joint account might be at risk. I realise that Ms S sees this differently, but I think this was a fair position for the Society to take.

Subsequently the Society was contacted by the OPG and the further information it received reinforced its concern about the need to protect Mrs S' money in the account. The Society said the OPG originally asked Ms S and the other attorney to agree to separate out the funds in the joint account and put Mrs S' money into a sole account for her benefit. When this wasn't actioned and other agencies became involved on Mrs S' behalf, the OPG suspended the LPA and took action to revoke the LPA authorising Ms S and the other attorney, leading to the appointment of replacement attorneys to look after Mrs S' interests.

Given these circumstances, I am satisfied that the Society acted fairly and reasonably throughout. It seems to me that the Society's actions reflected its overriding concern about protecting Mrs S' financial position and it took necessary steps to ensure that money in the joint account belonging to her was kept safe for her until it could be safely transferred to a sole account in her name. It's unfortunate if lack of access to funds in the joint account impacted adversely on her care needs. And I'm sorry if it caused Mrs S the degree of distress and inconvenience Ms S has described. But ultimately, I can't fairly hold the Society responsible for that when it seems like the underlying reason for the dispute lasting for as long as it did was because of the situation between Ms S, the other attorney and the OPG. In my view, the fact that the attorneys' authority was ultimately removed by the Court would support the actions the Society took here as being in Mrs S' best interests.

So I'm not upholding this complaint and it follows that I can't award any redress to Mrs S.

### **What the parties said in response to my provisional decision**

Ms S said I'd made key factual, legal and procedural errors in my provisional decision and (in brief summary) that:

- the address the Society used on its final response letter dated 12 May 2023 wasn't the address she was using for correspondence during 2023 and it wasn't secure, which the Society well knew.
- The Society didn't take any steps to check she'd received its 12 May 2023 letter.
- She didn't see this letter until 2025 when she went into a branch to make a withdrawal.

She also said that I've disregarded or overlooked the law, including around ownership of funds in joint accounts, I've not taken into account her particular circumstances or considered safeguarding responsibilities and generally not acted with regard to her human rights and principles of fairness. Ms S said this all means that there are exceptional circumstances which explain the time limit for bringing a complaint – and that her own complaint isn't time barred and I've reached the wrong decision on this complaint overall.

As a result, we asked the Society for some further information and it provided us with more information from its system records and an additional call recording of a telephone discussion with Ms S on 12 May 2023.

### **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 can understand why, due to the passage of time, Ms S could now have forgotten. But I am satisfied that despite what Ms S has said, she gave the Society explicit instructions to send its final response letter to the address it used. She confirmed the address during a phone call the same day the letter was sent. And despite being offered various options, she asked for the letter to be sent by first class post (not recorded delivery). She understood this meant she could expect the letter to be posted through her letterbox if she wasn't at home – not returned to a sorting office for her to collect later (which wasn't her preference).

I wouldn't reasonably expect the Society to have followed up with Ms S after this – the onus was on Ms S at that point to take further action as needed. And given that she knew to expect the letter and how and when it was sent, I think she would've contacted the Society herself if she hadn't received the expected letter.

I think it's more likely that Ms S received the letter shortly after it was sent on 12 May and she's simply forgotten this now.

The letter made clear that the next step was for Ms S to contact us if she was still dissatisfied and all necessary information was included for her to be able to do that.

I appreciate that Ms S' circumstances were difficult and I'm not unsympathetic. But a very brief phone call or email would've been enough to log her complaint if she'd wanted this service to investigate. The Society has a record of a branch visit in June 2023 so it's clear she was able to be out and about and she told the Society she was in work during the day.

Taking all this into consideration, I'm not persuaded that, however challenging her home circumstances could be, she was unable to exercise her right to bring the complaint she makes in her personal capacity (about not being able to access her money) to us before the expiry of the six-month deadline on 12 November 2023.

This means that we're not now able to consider the issues relating to the Society blocking Ms S' access to money in the joint account as she's brought that complaint to us too late and so she's time-barred from complaining to us in her personal capacity.

So far as Mrs S' complaint is concerned, I haven't been provided with any new information that changes my mind. For all the reasons set out more fully above, I consider that:

- The Society acted fairly and reasonably, prioritising Mrs S' financial protection.
- Its actions aimed to keep Mrs S' money safe in the joint account until it could be transferred to a sole account in her name.
- Lack of access to funds may have affected Mrs S' care and caused distress, but I can't fairly hold the Society responsible for this.
- The prolonged dispute was due to issues between Ms S, the other attorney, and the OPG - not the Society.
- The Court's removal of the attorneys supports the Society's actions as being in Mrs S' best interests.

So I'm not upholding her complaint.

## **My final decision**

For these reasons, my final decision is that:

- Ms S' complaint is time-barred so I'm not able to consider it, and
- for the reasons set out above, I'm not upholding Mrs S' complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S and Ms S to accept or reject my decision before 9 January 2026.

Susan Webb  
**Ombudsman**