

The complaint

The estate of Mrs R complains that Bank of Scotland plc trading as Halifax are holding it liable for transactions she didn't authorise.

What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

Mrs R passed away on 23 June 2023 after a period of living in hospitals and care homes. She was registered blind and was permanently in care or a care home for the last few months of her life. Shortly after Mrs R's passing, "the estate" reviewed some of her bank statements and concluded some of the transactions were not authorised.

The estate reported their concerns to Halifax arguing that the transactions were excessive and constituted an abuse by the Lasting Power of Attorneys ("LPA's"). They questioned how Mrs R could have spent the money and pointed to the final transaction, which was a payment for petrol on 26 June 2023. They also questioned why the deposit of £99,999 into the account didn't raise concerns and complained that there was interest owing on the account.

Halifax said the debit card payments were made using Mrs R's debit card and weren't unusual for the account, so they wouldn't have flagged as suspicious. It accepted it was unlikely that Mrs R made the payments herself but stated that it was likely she'd given the LPA's permission to use the debit card.

Finally, it said that as Mrs R's accounts were closed, any queries relating to interest would need to be requested through its Bereavement Department.

My provisional findings

I issued a provisional decision on 3 December 2025 in which I stated as follows:

Authorisation

Authorisation has two limbs – authentication and consent. So, Halifax needs to show the transactions were authenticated as well as showing Mrs R consented to them.

Authentication

There's no dispute that the card payments and ATM withdrawals were made using Mrs R's genuine debit card and PIN, so I'm satisfied they were properly authenticated.

Consent

Mr and Mrs F were appointed by Mrs R as attorneys under an LPA on 6 February 2020, along with two others. This gave them authority to make decisions in relation to her property

and financial affairs, and I'm satisfied the existence of the LPA meant they were authorised to make transactions on the account until Mrs R passed away on 23 June 2023.

The estate believes Mr and Mrs F were abusing their powers under the LPA and using the funds in the account to make transactions between 19 April 2021 and 26 June 2023 which weren't for Mrs R's benefit. I've carefully considered the detailed information about the transactions which the estate has submitted, but there is no evidence that Mrs R didn't ask or give permission for Mr and Mrs F to make the ATM withdrawals and debit card payments in question.

The estate has argued that many of the transactions don't appear to be for Mrs R's benefit, drawing particular attention to a payment of £500 for dental fees on 21 October 2022. I can't say for sure whether Mrs R knew about or agreed to any of the individual transactions, but as there was an LPA in place, I'm satisfied the payments were authorised for the purposes of the Payment Services Regulations 2017. And even if the attorneys acted outside of the scope of the LPA in making any of the payments, this wouldn't affect the fact they were authorised under the regulations, unless Halifax had been told otherwise (it wasn't notified of Mrs R's passing until 28 June 2023).

The estate has suggested Halifax wasn't aware of the LPA, but I'm satisfied that once the LPA was registered with the Office of the Public Guardian, Mr and Mrs F had authority to legally access the funds in Mrs R's account, and therefore they had her consent to make payments.

I'm also satisfied that Mrs R likely granted Mr and Mrs F access to her debit card and PIN, which gave them apparent authority to use the information, and that apparent authority would have remained in place until she did something to annul the authority. Had someone informed Halifax that Mr and Mrs F no longer had authority to access Mrs R's account, or that she'd passed away, the apparent authority would've ended. But I can't see that any such steps were taken until Halifax was notified of Mrs R's passing on 28 June 2023, and, because of this, I'm satisfied the disputed transactions were authorised.

However, as I've stated above, the existence of the LPA meant Mr and Mrs F were authorised to make payments until Mrs R passed away therefore, I don't consider that any payments made after 23 June 2023 were authorised. So, I'm minded to direct the transaction for fuel on 26 June 2023 is refunded to the estate.

Finally, if there are unusual or suspicious payments on an account, I'd expect Halifax to intervene with a view to protecting Mrs R from financial harm due to fraud. The payments didn't flag as suspicious on Halifax's systems. I've considered the nature of the payments in the context of whether they were suspicious or uncharacteristic for the account, and I don't think they were. The debit card spending represented ATM withdrawals and day-to-day spending, mostly for groceries and fuel, which wouldn't have seemed suspicious, and there were no other concerning factors present, such as high value payments. And the significant balance on the account would have meant the transactions were even less of a concern. So, I don't think Halifax missed an opportunity to intervene.

Interest

The estate has complained that the account was deprived of interest during the probate period but as our investigator explained, the account didn't pay interest and so I can't fairly conclude that Halifax is liable for any interest payments.

Developments

Halifax has accepted my provisional findings, but the estate has made some further comments which I'll summarise as follows:

- the spending on the account was fraudulent and incompatible with the fact Mrs R had been in a care home for several months, a fact about which Halifax ought reasonably to have been aware.
- Halifax ought to have done more to investigate the spending on the account.
- an LPA must act in the person's best interests and should not take anything other than small gifts.
- Halifax should have asked the existing LPAs about the large deposits into the account and whether the account was being managed appropriately.
- Halifax ought to have warned the LPAs that it was inappropriate to leave such large amounts in a non-interest bearing account, in accordance with the Consumer Duty 2023.
- Halifax wasn't notified that Mr and Mrs F were acting as LPAs.
- the estate has submitted notes received from Mr and Mrs F in response to enquiries about the spending on the account.

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 have carefully considered the additional comments and evidence submitted by the estate, but I'm afraid the findings in my final decision will remain the same as the findings in my provisional decision.

Before I set out my thoughts, I want to acknowledge that I have summarised the additional comments and evidence briefly and, in less detail, than has been provided. I've focused on what I think is the heart of the matter. While I may not comment on every point raised, I have considered it. I'm satisfied that I don't need to comment on every individual point or argument to be able to reach what I think is the right outcome. Our rules allow me to do this and reflect the fact that we are an informal service and a free alternative for consumers to the courts.

As I explained in my provisional decision, I don't think Halifax missed an opportunity to intervene and so I don't need to make a finding on whether the spending was fraudulent. I note the comments around the spending being incompatible with Mrs R's circumstances, but I don't think it's unreasonable that Halifax's fraud systems didn't flag the ATM withdrawals and low value transactions for groceries and fuel as suspicious. So, we wouldn't expect it to have intervened.

As regards the duties of the LPAs, I've carefully considered the list of transactions along with the further evidence submitted by the estate and I maintain there is no evidence that Mrs R didn't ask or give permission for Mr and Mrs F to make the disputed ATM withdrawals and debit card payments.

We wouldn't normally expect a bank to raise questions about deposits into accounts unless there are anti money laundering concerns. In addition, I'm satisfied that Halifax issued letters via the digital inbox which appear to have been viewed by either Mrs R or (more likely) one of the LPA's who were registered as having permission to access the online banking facility. The letters confirm interest was 'not applicable' and feature a section which recommends

checking the account is 'still right for you' and giving a link 'to find out what the interest rates are on our other accounts'.

I'm satisfied that in issuing these letters, Halifax drew attention to the fact interest wasn't applicable and provided information about how to check what other interest rates were available and I don't think there was anything else it ought reasonably to have done.

The estate has also argued that Halifax wasn't notified that Mr and Mrs F were acting as LPAs, but I'm satisfied that the LPA was registered with the Office of the Public Guardian, and I maintain therefore that they had authority to legally access the funds in Mrs R's account and that the payments were authorised under the Payment Services Regulations 2017.

Finally, I've considered the additional evidence submitted in support of the complaint and there's nothing to change the outcome of the complaint.

My final decision

My final decision is that Bank of Scotland plc trading as Halifax should:

- refund the transaction dated 26 June 2023.
- pay 8% simple interest*, per year, from 26 June 2023 to the date of the settlement.

*If Bank of Scotland plc trading as Halifax deducts tax in relation to the interest element of this award it should provide the estate with the appropriate tax deduction certificate.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mrs R to accept or reject my decision before 27 February 2026.

Carolyn Bonnell
Ombudsman