

complaint

Mr O brings this complaint on behalf of the estate of his late mother, Miss N. He complains about activity on his mother's accounts with National Westminster Bank Plc as he disputes that transactions were properly authorised.

background

Mr O says that the disputed activity was carried out by the other account holder on a joint account that Miss N held. Mr O says a number of cheques were issued between 2007 and 2010 without Miss N's authority or consent, her signature on the cheques either being forged or made with the other account holder's necessary help.

It is noted that following Miss N's death in June 2012, there were some issues with the bank settling the balance on her accounts with the person who was the joint account holder on the account. It was subsequently accepted that Miss N's will was not correctly executed. Mr O then obtained letters of administration for the estate and NatWest agreed to reinstate the relevant balances. Also, the matter was reported to the police, although an investigation was inconclusive.

NatWest has said that the cheques were drawn in accordance with the mandate for the joint account and the bank was not alerted to the possibility of fraud before Miss N's death. And our adjudicator agreed that the transactions were made in accordance with the arrangements that had been established jointly between Miss N and the other account holder in February 2005, the signatures on copy cheques bearing similarities to the signature on the signing mandate.

He noted that Mr O had said that because of Miss N's health, she would not have been able to issue the cheques on the account, which included cheques to the other joint account holder and a sports facility. But one cheque was payable to the residential care home where the late Miss N was staying at the time.

In the circumstances, the adjudicator considered it unlikely that he could determine whether Miss N intended for the third party to receive the benefit of the money from cheques that were issued from the joint account and there is no information to show that NatWest was notified of any issue with the account or the payments made from it at the time. He therefore did not conclude that Miss N did not sign and agree to the cheques being issued on the joint account.

The adjudicator also considered concerns that had been expressed about deposits and transfers that had been made in respect of the joint account, bonds in Miss N's name, possible ISAs, and possible accounts held in the third party's name. He set out the detail of the transactions insofar as he was able to establish them – some information is no longer available – but I do not need to set it out again here. From the information the adjudicator was able to establish, he did not believe that Miss N's estate had lost out because of the existence of accounts that could not be said not to be genuine or transactions which he concluded were likely to have been made appropriately.

He explained that at the heart of this complaint was a dispute between Mr O and another relative of Miss N, who was a joint account holder on one account, and in order to investigate such a complaint fully, he would need to test a significant amount of the

information provided. But he was not able to order a third party witness to provide written evidence to us, or indeed to properly test it.

And while he recognised that, as the personal representative of Miss N's estate, Mr O wanted to know how her money was used, and that it had not been misused by anyone else, he felt unable to get to the bottom of what is, in effect, a family dispute.

In conclusion, the adjudicator did not believe that there was sufficient evidence to show that the activity on the accounts complained about was undertaken without the authority or consent of the individuals that had been properly authorised to make payments. He considered that he could not say that the activity on the account was not properly authorised in accordance with the arrangements that the late Miss N had previously agreed to.

He therefore did not recommend that NatWest should be required to refund the amount of any of the transactions to the late Miss N's estate.

Mr O has asked for an ombudsman to review the complaint. He has presented no new evidence but he maintains that Miss N was not in a position, health wise, to have been able to authorise the transactions on the joint account or be aware of the transactions on the ISAs; he has also said that the police investigation should not have been concluded as it was and there may be developments with that.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I have come to the same findings and conclusions as the adjudicator.

I agree with the adjudicator in that I do not consider that it would be safe to conclude that the transactions on the joint account were ones that the bank should not have considered as being properly authorised. I have taken into account what Mr O has said about Miss N's health and the circumstances surrounding her will.

I also note what Mr O has generally said about what he believes has happened with the third party benefitting from transactions that Miss N would not have intended to make.

However, it remains that the third party was a signatory to the joint account. And I am not persuaded that there is sufficient evidence provided for me to fairly and reasonably conclude that the bank should reimburse the estate for the value of the cheques on the joint account on the basis that Miss N did not provide, and would not have provided, her authority for them to take place. I also note that, to date, the police have concluded that there is insufficient evidence to conclude that there had been any wrongdoing on the part of the third party.

Having considered what is now known about the bonds and ISAs in Miss N's name, and the transactions that took place on them, I also do not think it would be safe to conclude that Miss N was not aware of those accounts nor agreed to transactions that took place on them.

I recognise that Mr O will be disappointed with my decision and I do not doubt the strength of his belief that the third party took advantage of Miss N. However, I do not consider that the evidence is compelling enough for me to conclude that this was the case.

In light of what I have said, I do not consider that it would be fair and reasonable to require NatWest to reimburse, to the estate of Miss N, the value of the transactions that Mr O says were not properly authorised.

my final decision

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

Ray Neighbour
ombudsman