

## The complaint

Miss B complains about Close Brothers Limited, trading as Close Brothers, transferring her funds from her savings account without her instruction.

## What happened

I issued my provisional decision on 14 November 2023, and this is what I said:

*I've considered the relevant information about this complaint.*

*Based on what I've seen so far, there will be a different outcome to what our investigator proposed. Before I issue my final decision, I wanted to give everyone a chance to reply.*

*I'll look at any more comments and evidence that I get by 28 November 2023. But unless the information changes my mind, my final decision is likely to be along the following lines.*

### *The complaint*

*Miss B complains about Close Brothers Limited, trading as Close Brothers, transferring her funds from her savings account without her instruction.*

### *What happened*

*Miss B had a notice savings account with Close Brothers and, as she wanted to split her savings across other banks with better interest rates, on 2 February 2023 she used their on-line portal to give the required 35-day withdrawal notice.*

*When giving notice Miss B said she wanted to "withdraw some money" and, rather than give an instruction, wanted information on how she could "make the transfer once the notice period had passed".*

*On 6 February, Miss B received a response from Close Brothers. This didn't answer her question and despite Miss B not saying where the funds would be going, they said "the funds will be sent to your nominated bank on 9 March 2023". So, Miss B diarised to call Close Brothers on this date to give instructions on how much to pay and where to pay it.*

*On 9th March 2023, Miss B discovered £80,977.49 had been credited to her bank account with Bank A. Miss B says she was worried as she didn't know what this money was for. She later discovered Close Brothers had transferred her full savings account balance. Miss B was upset, shocked and distressed as she hadn't given Close Brothers any payment instruction.*

*Miss B complained to Close Brothers who apologised for a miscommunication error. Close Brothers offered Miss B a £40 goodwill gesture and backdated interest only where Miss B returned the funds.*

*Miss B was dissatisfied with this response. Miss B couldn't understand how the mistake was possible and considered there to be an illegality. Also, she thought Close Brothers should pay a higher amount of redress and returning the funds shouldn't be a prerequisite for paying lost interest. So, Miss B complained to our service.*

*Close Brothers later increased their goodwill offer to £75, however Miss B says she only knew this because of a communication from our service.*

*Miss B didn't transfer any funds back to Close Brothers and she discovered Close Brothers had applied another credit, for interest owed, and closed her account. Miss B says she didn't get any communication or give any instruction. So, she considers this to be a repeat of the same error.*

*Our investigator said Close Brothers should increase the amount of redress to £100 and cover the interest lost by Miss B until the date it made its initial offer plus seven days. Miss B remains dissatisfied, so this complaint has been referred to me to look at.*

*What I've provisionally 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 have a different view to the investigator. I'm also upholding this complaint, but I require Close Brothers to increase the amount of compensation and I'll explain why. I should first explain that I can't tell a business to make alterations to their systems, services, procedures or processes. I say this because we aren't the regulator of the financial services industry. Also, there are rules (known as DISP Rules) laid down by the regulator (Financial Conduct Authority) which means complaint handling is not a regulated activity. So, I'm unable to consider how Close Brothers have managed Miss B's complaint.*

*Furthermore, it's not my role to penalise businesses when service issues like this arise. However, what I can do is consider each individual case and, where I think a business hasn't acted fairly and reasonably in the circumstances, decide what should be done to put right any financial or non-financial losses that a consumer has experienced. So, we can ask a business to pay a proportionate level of redress. But assessing compensation isn't an exact science and our approach when making awards for non-financial loss is detailed on our website and tends to be modest.*

*Close Brothers do not dispute that they made a mistake transferring Miss B's full balance to her account with Bank A without her instruction. But before considering a proportionate level of redress I looked at whether Close Brothers had made a second mistake when, without receiving instruction, they closed Miss B's account and credited accrued interest to her account with bank A.*

*Even though Close Brothers transferred Miss B's full savings account balance and Miss B didn't re-credit her account following their mistake, there is no evidence that Miss B instructed Close Brothers to close her account. Also, Close Brothers' complaint response letter didn't mention her account would be closed. In addition, in her communication Miss B had said it was her "intention to withdraw some money" and I can't see the terms and conditions referenced that a minimum balance must be held to avoid closure.*

*So, I don't think it was reasonable for Close Brothers to close Miss B's account and I can understand the additional frustration and distress that this caused Miss B. Also, the £1,005.78 credited to her account with Bank A wouldn't attract any interest in Miss B's current account. In addition, from the information that is currently available, it appears Close Brothers made another mistake here – assuming that Miss B no longer wanted her savings account and failing to contact her about the closure or the repayment arrangement.*

*Having established that redress is required for two mistakes, I looked closely at the file to fully understand the impact of these mistakes on Miss B.*

*For the reasons mentioned above, it's not for our service to assess the risk exposure of*

*transferring a large amount of money to Miss B's current account with Bank A without her approval. However, with regard to the level of risk here, although I can understand Miss B's upset and concern, and it's Miss B's prerogative to refer this to the FCA, I noted that the account Close Brothers credited was the account Miss B had nominated and their terms and conditions say:*

*"All repayments will be made to your nominated bank account by electronic transfer"*

*Considering the first mistake, the transfer of Miss B's full balance without her instruction or any communication, from reviewing the file, I'm persuaded that Close Brothers caused Miss B both inconvenience and distress.*

*Miss B had only requested information on the withdrawal process and given the required period of notice. She also said she wanted to "withdraw some money", so, although the mistake was confirmed four days later on 6 February 2023 when Close Brothers said:*

*"Funds will be sent out to your nominated bank on 9 March 2023"*

*I can fully understand the confusion, shock, frustration, anxiety and loss of confidence Miss B describes when she discovered her full savings had suddenly arrived in her current account with Bank A.*

*This is because Miss B hadn't yet given any instruction to transfer her funds and I'm persuaded that she wouldn't have realised Close Brothers had misread her message which meant the nominated bank account was her current account with Bank A for which Close Brothers held details.*

*So, I'm satisfied that Miss B had no knowledge that her savings had left her high interest savings account with Close Brothers, and she was both confused and shocked to discover her full balance had been transferred to her current account with Bank A.*

*Although Miss B was clearly thinking about withdrawing some of her funds, it's clear from her message to Close Brothers that it wasn't her full savings. In addition, I think it's also clear that she wouldn't have wanted her full savings in an account earning no interest and subject to withdrawal restrictions which meant she couldn't immediately transfer it all back even if she chose to.*

*Furthermore, through no fault of her own, I'm persuaded that Miss B was put in a difficult position which she hadn't planned for and, as her savings were losing daily interest, she felt she had to move quickly. This would ordinarily cause inconvenience, frustration and anxiety however, I'm persuaded Miss B had limited time. This is because this issue coincided with significant demands on her time including serious caring responsibilities for more than one family member, medical appointments and other difficult matters that arose around this time.*

*I did consider whether Miss B could've mitigated the inconvenience and anxiety by transferring her savings straight back to Close Brothers, however in addition to practicality issues, due to Bank A's withdrawal limits, I think it was reasonable of Miss B to be reluctant to do so as Close Brothers gave her cause to have a serious loss of confidence at this time. This is because the mistake wasn't immediately explained to her and she believed her savings, which were a significant amount, would be at risk with Close Brothers as she couldn't understand how their procedures and security could allow an unauthorised transfer to take place.*

*So, having fully considering the above alongside our redress guidance, although the impact of the first mistake was short-term, I think Close Brothers caused Miss B considerable distress, worry and disruption that needed a lot of extra effort to quickly sort out.*

*So, to put things right I require Close Brothers to pay Miss B £350 redress.*

*Also, there is the matter of lost daily interest and, considering the above circumstances, impact and position she was put in, I don't think it was unreasonable of Miss B to take between 9 and 11 days (between 18, 19 and 20 March 2023) to pay £75000 in three tranches of £25000 to other savings accounts. So, I also require Close Brothers to pay the daily interest she lost out on for the amount of £75000.*

*Regarding the above mentioned second mistake, where Close Brothers closed Miss B's account and transferred outstanding interest to her (nominated) account with Bank A. As Miss B was unhappy with Close Brothers and didn't transfer back her funds, I can understand why they thought she no longer required her savings account.*

*However, I can't see that Miss B instructed them to do so or that Close Brothers made any communication here. So, considering the first mistake and their knowledge of Miss B's complaint, her concerns about moving her money without her knowledge, I think that rather than making an assumption here, Close Brothers should have either contacted Miss B to ask her how she wished to proceed or left her account open accruing interest. Also, I can't see any communications on file and the following information Miss B says she received from Close Brothers uses language that is vague and shows it was necessary for Miss B to make enquiries:*

*"The payment of 1,005.78 appears to be the interest you earned on your notice account that closed on 9-5-23"*

*Although I can't tell Close Brothers to re-open Miss B's account, and Miss B may no longer wish this, to put this right I require Close Brothers to pay Miss B additional compensation. Whilst I consider the impact of this mistake to be lower than the first, due to the lower amount involved and less time and trouble being required to resolve, I'm persuaded that this mistake added to the inconvenience, frustration and annoyance that Miss B had already experienced. So, I require Close Brothers to pay Miss B an additional £100 redress.*

*Regarding an award for lost interest on the £1,005.78 interest credited to Miss B's account with Bank A, I would need information on the date this was re-invested.*

*So, in summary, having considered all the above, I'm upholding this complaint and to put things right I require Close Brothers to:*

- Pay Miss B £450 compensation less any amounts already paid*
- Pay Miss B interest, at the rate she would've earned had £75000 been in her savings account for 10 days (which is the average number of days Miss B missed out on interest)*

*My provisional decision*

*For the reasons I've given above, it's my provisional decision to uphold this complaint.*

*I require Close Brothers Limited, trading as Close Brothers, to:*

- Pay Miss B £450 compensation less any amounts already paid*
- Pay Miss B interest, at the rate she would've earned had £75000 been in her savings account, for 10 days (which is the average number of days Miss B missed out on interest)*

*I'll look at anything else anyone wants to give me – so long as I get it before 28 November 2023.*

*Unless that information changes my mind, my final decision is likely to be as I've set out above.*

### **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.

In my provisional decision, I gave both Close Brothers and Miss B the opportunity to provide any comments or new information they might wish me to consider before I moved to a final decision.

I would like to thank both parties for responding before the deadline.

Close Brothers said they were *"happy to settle the complaint as suggested in the decision"*. However, regarding paying loss of interest on the £75,000, they gained the impression that Miss B's current account with Bank A attracts interest, and this should be deducted from any interest they pay.

However, in her reply Miss B confirmed and showed evidence that her current account doesn't pay any interest on amounts in excess of £5,000. Also, she said, she was already holding a higher balance than £5,000 in her current account, *"so this money earned no interest whilst it was in that account"*.

In her response Miss B:

- Confirmed:
  - That no increased offer has ever been received from Close Brothers and she only heard of its existence through our service.
  - She didn't give an instruction to close her account at any time or detail an amount or where to send either of the payments.
  - The interest payment of £1,005.78 was not reinvested so did not earn any interest.
  - No compensation payment had been made in connection with this complaint since it was raised not even the amount Close Brothers originally offered
- Said the award should be much higher given the seriousness of the breach of the client money rules.
- Would like interest on the interest.
- She disagreed that the second breach of Close Brothers closing her account and sending her the interest was less serious. She considers the second breach to be more serious and said this is because *"it demonstrates that the first breach was not a simple misunderstanding error as claimed by Close Brothers, that there are far more serious procedural, system and processing errors involved in both of these breaches, and that Close Brothers has not addressed them. I consider it to be an extremely serious matter that a bank can pay someone's money away whenever they please without any instruction from the customer or even notification to them"*. And feels Close Brothers system isn't safe.

Regarding the serious breaches Miss B considers Close Brothers have made, it is her prerogative to refer these matters to the regulator who are responsible for business systems, procedures and processes. However, although Close Brothers don't dispute they've made assumptions, which I consider to be errors, transferring Miss B funds out of her savings

account on two occasions and closing her account without her approval or notice, the evidence shows that Close Brothers credited an account nominated by Miss B and the terms and conditions of the account say, *“All repayments will be made to your nominated bank account by electronic transfer.”*

So, although I fully understand Miss B’s concerns about Close Brothers operating procedures and sympathise with the distress, inconvenience and worry caused, I’m not persuaded that Close Brothers actions put her funds at risk or compensation should correspond with an interpretation of the level of risk.

I can see from Miss B’s comments that the impact of the second transfer of interest, caused further emotional distress. However, I have to balance this with the fact that her funds went into an account she had nominated to Close Brothers and there were no further funds remaining.

Due to Miss B’s comments about the second transfer, the low level of award and request for additional interest, I looked again at the file, the overall impact and compensation award, bearing in mind that our approach for non-financial loss tends to be modest.

I took into account Miss B’s persuasive testimony about the impact on her, the worry, inconvenience and frustration caused by more than one assumption and error. Also, her submission following receipt of my provisional decision.

As my role is to be impartial and objective, I also considered the fact that Close Brothers credited a nominated account and, although I consider their assumptions to have been errors and understand Miss B’s security concerns, I’m persuaded they thought they were being helpful, for example by closing her account and transferring interest after not receiving back her funds. Also, although I’m persuaded by Miss B’s submissions that she didn’t notice or realise an early red flag, I found that Close Brothers did send Miss B a message and flag their wrong assumption and intention to transfer her funds to her nominated account a few days after her original request for information.

So, having considered all the above, my final decision is that I’m upholding this complaint and I still think the right level of compensation is for Close Brothers Limited to:

- *Pay Miss B £450 compensation*
- *Pay Miss B interest, at the rate she would’ve earned had £75000 been in her savings account, for 10 days (which is the average number of days Miss B missed out on interest)*

### **My final decision**

My final decision is that I’m upholding this complaint and I require Close Brothers Limited to:

- *Pay Miss B £450 compensation*
- *Pay Miss B interest, at the rate she would’ve earned had £75000 been in her savings account, for 10 days (which is the average number of days Miss B missed out on interest)*

Under the rules of the Financial Ombudsman Service, I’m required to ask Miss B to accept or reject my decision before 29 December 2023.

Paul Douglas

**Ombudsman**