

The complaint

Ms T complains that Bank of Scotland plc trading as Birmingham Midshires (BM) should be required to repay her money she invested in an account that cannot now be located and is untraceable.

What happened

In late December 2011, Ms T opened an internet fixed saver account with BM, and shortly afterwards, paid in £85,000. She set up a linked current account at the same time so that any payments from the saver account would go directly to the linked account.

In May 2023, Ms T wanted to access her savings in the account. She was concerned to learn from BM that it could not locate the account and that BM said this indicated the account had been closed for more than 10 years. BM said it would have had a record of her money otherwise.

Ms T brought a complaint to this service, mainly saying that she hadn't closed the account and that she could find no trace of any money from the savings account ever having been paid into her linked current account – which was the only UK bank account she had.

Our investigator looked into what happened but didn't uphold the complaint. He didn't feel he had seen enough to be able to agree that BM still held funds belonging to Ms T.

Ms T disagreed with the investigator, blaming BM for losing track of her money. She asked for an ombudsman review and her complaint has come to me to decide.

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.

The crux of Ms T's complaint is that she thinks BM is holding money belonging to her. So I can understand that it's frustrating for Ms T that BM can't tell her what happened to the money she invested in the account in 2012.

It might be helpful if I start by clarifying what the Financial Ombudsman Service can do here.

We provide an informal complaint handling service. We are impartial and we make decisions based on a balance of probabilities. In other words, what I consider is more likely than not to have happened in light of the available evidence and the wider circumstances. In order to be able to uphold this complaint, I would need to find that BM has treated Ms T unfairly or unreasonably. So that's the focus of my decision.

Based on all the information I've seen and been told, I am satisfied that BM has done everything I would reasonably expect it to do here and treated Ms T in a fair and reasonable way. I'll explain my reasons.

BM told Ms T that it couldn't locate money she believes BM still holds for her and that it purged its records after 10 years – leading BM to surmise that her account must have been closed for more than 10 years.

I recognise that there are some gaps in the information BM has provided. But I wouldn't reasonably expect BM to keep old records indefinitely.

BM has provided full details of the searches and checks carried out and these seem exhaustive to me. No trace can be found of this account, or any account in Ms T's name. I think it's fair to say that if Ms T still had the account, then it's more likely than not that BM would be able to identify this from a search of its records.

So this leads me to conclude, applying the test of balance of probabilities, that the account Ms T paid £85,000 into in early 2012 no longer exists.

The fact that BM hasn't kept a record of this account and, as a result, can't say what happened to the money in it, doesn't mean I should uphold this complaint. Keeping records of closed accounts puts client data at risk so there would need to be a very strong argument for keeping old records.

BM is required to manage and protect clients' data – its ten-year purge system seems reasonable to me. Data protection requirements mean that, generally speaking, businesses are not required to keep records beyond six years.

Proving that the money from the account wasn't paid into the linked account wouldn't enable me to uphold Ms T's complaint as there are other possible ways her money could have been moved. I've kept in mind that Ms T told us the account was marketed as a 1-year investment account and '*...not an evergreen rolling investment. Given they required a linked account be set up, the correct practice would be for them to return the funds after 1y to the linked account...*' But that view seems to me likely to be based on a misunderstanding. And it doesn't reflect typical account terms and conditions Ms T would more likely have signed up to when she opened the account.

If Ms T thought BM should've paid the funds into the linked account at the end of the fixed term, then I think it's probable that she would have wanted to know what happened to that money when it didn't reappear in the current account as expected. And she would have raised this with BM much sooner and not waited for more than 10 years before chasing this up.

I think it's more likely that, at the end of the fixed term, Ms T would have had to give instructions to BM about what she wanted to do with her money. She told us this money represented a significant part of her savings. So I think it's more likely she might have reviewed her options sometime around or after the end of the fixed term in early 2013.

Given that it doesn't look like she needed access to the funds in her account until May 2023, this could have prompted her to move her money – possibly into another investment. That wouldn't necessarily have involved the money passing through her linked account.

I don't doubt that Ms T is certain about what she's told us. But I must allow for the possibility that, due to the passage of time, it's likely Ms T might be overlooking what happened to her money. This means I can attach only limited weight to what she says when this is unsupported by other information.

Looked at overall, I find that BM has treated Ms T in a fair and reasonable way. It has carried out the enquiries I would expect. And there's a reasonable explanation for the fact that it cannot provide Ms T with more information about this account.

Whilst Ms T doesn't accept the information BM has provided and feels that it's the responsibility of BM to locate her money, she doesn't however have any information about the ongoing existence of the account. So it wouldn't be fair for me to require BM to pay the money she thinks should be in the account.

My final decision

For these reasons, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms T to accept or reject my decision before 12 June 2024.

Susan Webb
Ombudsman