

The complaint

The estate of Mrs C complains that Santander UK Plc (“Santander”) allowed money to be transferred out of Mrs C’s account to a third party that wasn’t the executor of the estate.

What happened

The details of this complaint are well known to both parties, so I won’t repeat everything again here. In brief summary, the executor of Mrs C’s estate (“Mrs P”) says that money in her Santander account was left in Mrs C’s will to her grandson. However, she says that Santander paid the balance of the account to another family member and allowed them to withdraw money using just the death certificate and ID.

Santander confirmed that it did pay money to the third party as they had the required documentation. After Mrs P claimed to be the executor, it asked her to show this by producing a grant of probate and subsequently paid the money to her as the rightful executor in November 2022.

Mrs P complains that the money should have only been paid to her as sole executor of the estate, and she is also unhappy that she had to provide a grant of probate given the value of the estate.

Our investigator didn’t uphold the complaint. She was satisfied that Santander had paid her the correct amount, and also didn’t think it was unreasonable for it to request a grant of probate given the dispute over which person was the rightful executor. Mrs P disagreed, so the matter has been escalated to me to determine.

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.

Having done so, I agree with the conclusions reached by the investigator for the following reasons:

- Mrs P claims that Santander wrongly paid the balance of Mrs C’s account to a third party on 17 May 2022. Santander says the account was closed on this date and the funds sent to a third party because they had signed the indemnity form confirming they were the rightful executor, showing ID and a death certificate.
- I understand that Mrs P is unhappy about this. But it appears the third party had the required documentation in order to close the account. I appreciate they may not have been the executor, but in any event, the balance of the account has subsequently been paid by Santander to Mrs P as the rightful executor on 18 November 2022. So, there has been no financial loss here. Santander may wish to initiate recovery proceedings against the third party for wrongly claiming the funds, but it would not have to involve Mrs P in this exercise. So, given Mrs P has since received the balance of Mrs C’s account, I’m not persuaded Santander would need to do anything further.

- Mrs P has also disputed a £3,552.08 payment being made on 16 May 2022 before the account was closed. Santander has confirmed that this was to pay off an outstanding loan that was held by Mrs C, which is in line with the terms set out in its bereavement guide, where it states that loans held solely in the deceased's name can be repaid from the estate. Therefore, I don't consider it has acted unfairly by using money from the estate to offset Mrs C's outstanding loan.
- Mrs P is also unhappy that Santander required her to obtain a grant of probate before releasing the funds to her, as this isn't in line with its bereavement guide that states a grant of representation will only be required if the value of the estate is over £50,000. I appreciate that the value of Mrs C's estate did not exceed this amount, such that a grant of probate would not normally be required. However, in this instance, there was a dispute over who was the rightful executor, as another person had already signed an indemnity claiming they were in May 2022. Therefore, I don't think it was unreasonable in such circumstances for Santander to request a grant of probate from Mrs P after she claimed it was her, as this would show definitively who the courts deem to be the executor of the estate.
- I note there were also several ATM withdrawals and other payments made between the date of Mrs C's death and the account being closed. But Mrs P has confirmed that these were withdrawals made by her as the executor, so I have not considered these as they are not in dispute.

I appreciate this may come as a disappointment to Mrs P, and I understand that the police are now investigating the actions of the third party. However, I'm not persuaded that Santander has done anything wrong or would need to take any further action in these circumstances.

My final decision

For the reasons given above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mrs C to accept or reject my decision before 26 October 2023.

Jack Ferris
Ombudsman