

The complaint

The estate of Mr S (the estate) complains that The Royal Bank of Scotland Plc (RBS) told them wrong information and contributed to delays which cost the estate an Inheritance Tax (IHT) refund of £9,787.58.

What happened

Mr S died on 5 November 2021. The estate used the Death Notification Service (to inform banks where Mr S held accounts), of his death the following week. The estate says that while other banks wrote to the estate to ask for a death certificate, they heard nothing from RBS, and they continued to pay direct debits and standing order's from Mr S' account, which the estate only found out when they opened a bank statement from RBS in December.

One of the executors of the estate telephoned RBS' bereavement team to enquire why Mr S' account wasn't closed, and the executor says she was told that they didn't know Mr S had died and they should inform them using the RBS Bereavement Portal. The estate did this. The estate says that Mr S' estate was complex and subject to IHT, and with the help of an accountant they completed the necessary forms and submitted them on 10 May 2022. The estate says probate was applied for on 30 May 2022 and an email confirming receipt of the probate forms were received on 30 June 2022, with advice that the application would take up to eight weeks to be fully processed.

The estate says that HM Revenue & Customs (HMRC) sent them the IHT calculation and on 13 July 2022, the estate visited the RBS Bereavement Portal where it asked for them to upload the IHT bill, so they uploaded the calculation as this was the only documentation they received from HMRC. The estate rung RBS to find out how long this would take to approve, and they say the call handler assured them that he had approved the upload and that everything was in order. An executor of the estate rung RBS in August 2022, to find out when the IHT had been paid, only to find out it hadn't been paid. RBS rung an executor to inform her the wrong document had been uploaded to the Bereavement Portal and they required HMRC form IHT423. This was uploaded and the IHT was paid by RBS on 25 August 2022. The estate says that this error resulted in a five week delay in obtaining the Grant of Probate and the estate had been told that the earliest they would be able to obtain the Grant of Probate was 4 November 2022.

The estate says that in order for them to claim relief of IHT on losses of the sale of shares for Mr S, they must be sold within 12 months of the date of death. As the Grant of Probate was received by them on 10 November 2022, and the shares were sold on 15 November 2022, at a loss of £24,468.95, this meant the estate lost out on £9,787.58 as they weren't able to reclaim overpaid IHT within the required timeframe. The estate made a complaint to RBS.

RBS partially upheld the estate's complaint. Originally, they said they sent the estate a cheque for £230 as the direct debits and standing orders that had left the account after the bereavement notification were not to be refunded and pursued and that pension credits were not returned. They said that these would be released to the estate as part of the closing balance once they have all documents.

RBS said that although it was felt they did delay the IHT payment for five weeks, there had been other delays within the 12 months since Mr S passed away that had also contributed to the delay. So RBS did not agree to pay the £9,787.58 that the estate had asked for, but they offered the estate £1,000 towards this figure. The estate brought their complaint to our service.

In regards to the £230 compensation for distress and inconvenience that RBS offered to the estate, our investigator said as this was offered to the executors personally for the service they received, then we are unable to comment on this based on our service not being able to award compensation to executors who have brought a complaint on behalf of an estate, as it the case with this complaint, but we could look into any loss the estate suffered which in this case would be the sale of the shares at a loss and not being able to reclaim the losses against the IHT paid.

Our investigator said that RBS have already admitted and upheld the delay of five weeks in their letter of 31 August 2022, but he did not believe that RBS was the sole reason for the estate not being able to reclaim the overpaid IHT back within the required timeframe to do this as over three quarters of the time allowed to obtain probate (12 months) had passed before RBS was given the information and expected to make the payment, so he felt the offer of £1,000 was fair and reasonable.

The estate asked for an ombudsman to review their complaint. They made a number of points. In summary, they said in order to satisfy HMRC, all assets of the estate and personal items needed to be professionally valued. In November and December 2021 Covid was still an issue and it was extremely difficult to engage valuers. They said some of the necessary documents were not obtained until well into 2022. They said it is apparent that HMRC take between four and six weeks to action any process, which is why they waited five weeks before telephoning RBS to find out whether the IHT had been paid. They said the fact that an RBS employee had told them the correct documentation had been uploaded lulled them into a false sense of security.

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.

Firstly I'd like to pass my condolences onto the estate. I'm aware that I've only summarised the estate's complaint points. And I'm not going to respond to every single point made by them. No discourtesy is intended by this. Our rules allow me to take this approach. It simply reflects the informal nature of our service as a free alternative to the courts. If there's something I haven't mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point to be able to reach what I think is a fair outcome.

It's not clear why the Death Notification Service didn't work for RBS to inform the estate that they should use the Bereavement Portal to notify them of Mr S' passing. But from the notes from RBS it does appear that they weren't aware of Mr S' death when other banks were aware (and other banks were asking the estate to provide the death certificate). This meant that direct debits and standing orders continued to debit Mr S' account after he had passed away and a pension credited his account. So this inconvenienced the executors personally to try and resolve this at a very difficult time. RBS offered the executors £230 compensation for the distress and inconvenience of what happened to them personally here.

As our investigator has explained, our service is unable to award the executors for any distress and inconvenience they have personally encountered in their role as an executor as they are not the eligible complainants in this complaint. The estate of Mr S is. So I'd be

unable to ask RBS to pay the executors any further distress or inconvenience payments for what happened here.

But I have considered what the estate has said about missing out on £9,787.58 as the delays from RBS caused them to miss out on the deadline to reclaim the overpaid IHT. But in order for me to be satisfied that RBS should pay the estate the full £9,787.58, I'd need to be satisfied that they were solely responsible for the delays which caused the estate to miss out on this.

There's no doubt that RBS have been responsible for some delays. They had told the estate that they had everything they needed which was incorrect as the tax calculation which was uploaded was not the required form they needed. And it was only when one of the executors rung RBS that this came to light. So RBS was responsible for around five weeks of the delays here. But the estate had 52 weeks to reclaim the overpaid IHT. So I'm not persuaded that RBS were solely responsible for the overpaid IHT refund not being able to be successful in the required timeframe.

I've considered what the estate have said about the effects of Covid in late 2021 and that some of the necessary documents were not obtained until well into 2022. They have also said that HMRC take 4-6 weeks to action any process. And it is for this reason that I can't fairly say that RBS were solely responsible for the delays. I say this as it was out of RBS' control how long it took for items to be professionally valued, the time it took for the accountant to complete the relevant paperwork and calculations and how long HMRC take to complete their processes.

So while I'm satisfied that RBS contributed to the delays, I can't reasonably say they were solely responsible for the delays which caused the estate to miss out on the overpaid IHT refund. I've considered what would be a fair outcome for this complaint. Both parties generally agree that RBS were responsible for approximately five weeks of the delay. But with that being said, RBS were not responsible for the longest delays here, as it appears other parties involved took longer at times to complete their part of the process.

So while I have every sympathy with the estate, I consider the £1,000 offer to be proportionate for RBS' role in the delay's here. So RBS should pay the estate £1,000 if they haven't already done so, but I don't require them to do anything further.

My final decision

The Royal Bank of Scotland Plc has already made an offer to pay £1,000 to settle the complaint and I think this offer is fair in all the circumstances.

So my decision is that The Royal Bank of Scotland Plc should pay the estate of Mr S £1,000 (only if they have not already done so). But I won't be requiring them to do anything further.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mr S to accept or reject my decision before 17 November 2023.

Gregory Sloanes
Ombudsman