

## **The complaint**

Mrs B acts as the representative of Mr C who in turn is the representative of his late wife's estate. He complains that Bank of Scotland PLC trading as Birmingham Midshires (BoS) has failed to repay the balance on an old passbook account belonging to his late wife.

## **What happened**

Mrs C passed away in December 2015. When clearing out old papers Mr C found a passbook for an old Birmingham Midshires account with a balance of £308 in it. He wrote to BoS requesting that it pay the balance on the account to him. However BoS advised that it was unable to trace an account in the late Mrs C's name. It asked him to provide further information and Mrs B attempted to do that over the telephone but she says the adviser was rude to her and refused to discuss the account. They provided further information but did not hear back from BoS.

BoS responded to the complaint in April 2023. It apologised for the poor service and offered £40. However it advised that it was still unable to trace the account.

On referral to the Financial Ombudsman Service BoS indicated that it still couldn't trace the account and it passed it to its dormant and inactive team to search historic records. It pointed out that it was unlikely to have kept records going back more than six years. It subsequently advised that its further search had still not been able to find the account. It thought it was likely that the account had been closed sometime after November 2005 which was the date of the last entry in the passbook.

Our Investigator concluded that BoS had made reasonable attempts to locate the account so he couldn't ask it to take any further steps.

Mrs B, on behalf of Mr C, didn't agree. She pointed out that the £40 had not been paid. She felt that as the passbook was a record of the amount of money in the account it was up to BoS to prove that the money had been withdrawn. She thought it likely that the account had been closed in error, so BoS should pay the balance on the account. She further said that £40 was not sufficient for the way Mr C had been treated. As a compromise however Mr C would agree to receive half of the balance along with the £40 compensation.

BoS did not agree and the matter has been passed to me for an Ombudsman's consideration

## **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, with regret for the upset I know this will cause Mr C, I don't think that BoS has acted unfairly regarding the funds on his late wife's account.

Passbooks are a record of particular transactions. However they are not a definitive record

of what is on the account. For example we are aware that financial businesses would allow customers to withdraw monies from their account without a passbook if they had sufficient proof of their identity. Also passbooks could be lost or mislaid and duplicates issued. In the case of this particular account I've noted that from page 1 to page 2 there must have been a transaction or transactions which increased the balance on the account by nearly £2,000 but which were not recorded in the passbook. So I can't agree with Mrs B's assertion that the balance noted in the passbook most likely represents what was actually in the account. Just as money appears to have been added without record between pages 1 and 2, the last recorded balance could have subsequently been withdrawn.

If a customer requires a business to pay out money on an old account, we would expect the business to carry out reasonable searches to trace the account. In this case BoS has not been able to establish any record of Mrs C's account. And it's referred the matter to its dormant and inactive team who was also unable to trace the account. So I think that BoS did carry out reasonable searches.

If a business wants to close down an account for inactivity we would expect it to attempt to contact the customer.

The fact that Mrs C doesn't appear to have been contacted, and that the dormant and inactive team cannot trace any funds transferred from a dormant account, would seem to indicate that the account was closed sometime after 2005. Regrettably as BoS is not required to keep records going back more than six years it's not going to be possible to definitively state what happened to the funds on the account. However in my view and given the searches that BoS carried out, it seems more likely that the funds on the account were withdrawn rather than, as Mrs B has suggested, the account was closed in error. So I think that BoS acted reasonably in its attempts to trace the account.

With regard to compensation, I can't make any award to Mrs B as Mr C's representative. Similarly as a representative of the estate of Mrs C, I can't award Mr C personally any compensation. However I can award compensation if the estate was caused inconvenience. I do note that BoS was slow to reply to correspondence about the case. I think that caused some inconvenience. Bearing in mind the sort of compensation awards we make in this type of case, I think that the £40 offered was reasonable. Mrs B has pointed out that this has not been paid although it seems likely that BoS thought the offer had been rejected. I will ask it to pay that sum to Mr C.

### **My final decision**

BoS has already made an offer to pay £40 to settle the complaint and I think this offer is fair in all the circumstances.

So my decision is that Bank of Scotland plc trading as Birmingham Midshires should pay £40.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C as representative of the estate of Mrs C to accept or reject my decision before 2 February 2024.

Ray Lawley  
**Ombudsman**