

The complaint

Mrs J complains National Westminster Bank Plc ("NatWest") refused to register her son as attorney on her account. She is assisted in bringing this complaint by her son Mr J.

What happened

Mrs J made a Lasting Power of Attorney ("LPA") which has been registered at The Office of the Public Guardian. She appointed attorneys and is unhappy that when one of them - her son Mr J - applied to NatWest to register the LPA with them recently the request was refused. NatWest said the refusal was as the date of birth ("DOB") for Mr J on the LPA is different to that on his Driving Licence and Passport.

Our investigator didn't uphold the complaint. He didn't think NatWest were wrong to decline this LPA was satisfied it had acted fairly and reasonably as it had a duty of care to customers and their accounts not to allow a third party control without appropriate checks. He also thought this was particularly important where the account holder might be vulnerable. So, he didn't uphold the complaint.

Mrs J asked for an ombudsman's decision. She couldn't see how NatWest's stance was justified when they'd allowed the other attorney to register and have access to the account when the same LPA also contained the wrong date of birth for her as the donor.

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.

As much as I understand Mrs J's frustrations with what's happened, I've got to look at whether NatWest did anything wrong. And, having reviewed all the evidence here I don't think they did. So, I'm not going to uphold this complaint and I'll explain my reasons.

The DOB for Mr J on the LPA is different to Mr J's actual DOB shown on his passport and driving licence. It seems to me everyone accepts this is a discrepancy.

It's been suggested the LPA is invalid so can't be registered. I can understand why such a suggestion would make Mrs J question why her other attorney, named in the same LPA has been registered previously on her account by the bank. But the validity of the instrument itself isn't the issue here. Rather, I think the central issue here is one of identification. And whether the bank have done anything wrong in refusing the attorney access when the discrepancy arose.

Our investigators already explained the duty of care a bank has to clients when third party access is requested on an account, I agree with what's been said in the view so won't repeat that here. In addition to that the bank are subject to regulations to conduct identity checks and to 'know their client'. When something as fundamental as an individual's or applicants date of birth is inconsistent - and those most basic checks fail - I don't think it's unreasonable for a bank to refuse the request to register until that discrepancy is cleared up. So, I don't

think NatWest have acted unreasonably in relation to the application to register Mr J on the account.

In respect of the earlier registration of the other attorney under this LPA any concerns about that application would need to be raised separately alongside that attorney for consideration as a separate complaint.

Overall given my findings, it wouldn't be fair or reasonable for me to require NatWest to do anything further here.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs J to accept or reject my decision before 21 December 2023.

Annabel O'Sullivan
Ombudsman