

## **The complaint**

Mr T2, on behalf of the estate of the late Mr T1, complains that Lloyds Bank PLC wrongly used funds held in the late Mr T1's account to repay outstanding debts with it.

## **What happened**

The late Mr T1 held a current account, loan account and credit card account with Lloyds. When he passed away in April 2016, Lloyds used the credit balance in the current account to reduce outstanding balances on the credit card and loan accounts. The remaining outstanding balance was written off.

But Mr T2 says that part of the credit balance in the current account included benefit payments that were due to his sister (Miss T) as his father (the late Mr T1) had been her carer before he passed away. So, he complained to Lloyds on behalf of the late Mr T1's estate.

Lloyds said it had no knowledge that the late Mr T1 had been Miss T's carer or that the benefits payments paid to his account may have been intended for Miss T. So, it dealt with the late Mr T1's accounts in the normal way when a customer passes away.

It went on to explain that in 2017 it had been approached by Miss T's local authority about the late Mr T1's account and it had provided statements for the account, and it confirmed that the account balances had been used to repay the outstanding debts. It said that if funds in the account had belonged to Miss T the local authority would need to claim it back – but it hadn't received any further contact from them. So, it didn't uphold the complaint.

Unhappy with the response Mr T2 referred the complaint to this service. In order to look at the complaint we needed Mr T2 to provide us with the required authority to show he had the power to act on behalf of the late Mr T1's estate. Letters of Administration were provided in 2023. On receipt of this, one of our investigators looked into the complaint.

But he didn't uphold it. He said Lloyds had shown that the current account balance held in the late Mr T1's sole name had been used to reduce debts held with it which were also in his sole name. He added that following this the outstanding balance on the debts had been written off. He noted that there wasn't any evidence that Lloyds had been aware that funds in the account may have been intended for Miss T as the reference on the benefit payments didn't identify who the payments were intended for.

He added that Lloyds had said that if the payments hadn't been due to Mr T1 the appropriate benefits department or local authority would need to reclaim the funds. As this hadn't happened, he didn't think Lloyds was required to pay any money to the late Mr T1's estate.

Mr T2 asked for the complaint to be reviewed by an ombudsman. He said that the local authority had failed to follow up on the return of his sister's benefit payments and, on this basis, it reasonable to ask Lloyds to release funds from the late Mr T1's account.

The complaint was passed to me to decide. And I issued a provisional decision.

## **What I said in my provisional decision dated 30 October 2023.**

*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'm intending to reach the same overall conclusion as our investigator. I understand Mr T2 - as the authorised representative of the late Mr T1's estate, will be disappointed as I can see he has been pursuing this matter for several years. But I can only uphold this complaint if I'm satisfied that Lloyds has acted unfairly, and I don't think it did. I'll explain why.*

*Mr T2 has referred to the local authority violating the Mental Capacity Act by failing to follow up on the return of benefit payments that Miss T was entitled to. However, I can't comment on such matters. Local Authorities don't fall under the jurisdiction of this service. This complaint is about how Lloyds dealt with the accounts held by the late Mr T1 with it. So, for clarity, my decision solely relates to Lloyds' actions.*

*The investigator has already set out the balances on the late Mr T1's accounts when he passed away and this isn't in dispute. So, I won't repeat all those details here.*

*Generally speaking, when a person passes away any assets held in their sole name should be used to repay any outstanding debts in their sole name. If there aren't enough assets to repay any outstanding debts the debts are written off. I'm satisfied that this is the process Lloyds followed. So, I don't find Lloyds acted unfairly when it was notified Mr T1 had passed away.*

*But Mr T2 says that benefit payments paid into his father's account, and which formed part of the credit balance were intended for the benefit of Miss T – his sister, as his father had been her carer/guardian. And he has provided some evidence which indicate that Miss T was entitled to a range of benefit payments.*

*I've compared this documentation to the late Mr T1's current account statements. And I can see that some of the benefit payments received into the account match the reference numbers on the letters Mr T2 has provided. So, I'm persuaded that some of the benefit payments paid to the account related to Miss T. But I don't find that it automatically follows that Lloyds has to pay the value of those benefit payments to Mr T1's estate.*

*The late Mr T1s statements also show other benefits payments being received and these don't share the same reference as those on the documentation Mr T2 has provided relating to his sister. Rather, I'm persuaded that these appear to relate to payments relating to the late Mr T1. For example, some benefit payments appear to be state pension and pension credits payments.*

*Furthermore, all these payments were paid over a long period of time and there were many cash withdrawals and other transactions made in between. So, I don't think I can safely say what – if any, of the balance in the account when Mr T1 passed away belonged to Miss T. Or that the benefits payments intended for Miss weren't used for the benefit of her.*

*In addition, Lloyds has provided evidence that in 2017 Miss T's local authority – which at the time had been appointed by the Court of Protection as Deputy to act on behalf of Miss T, had been in contact with it and it had provided copies of the late Mr T1's statements and confirmed that the balance had been used to repay outstanding debts. But Lloyds said that the local authority didn't respond further.*

*Having thought about this, I think if the local authority – as Miss T's appointed deputy, considered that Lloyds was required to pay back any benefit payments made for the benefit of Miss T then it would have contacted Lloyds further. But I haven't seen any evidence to suggest it did.*

*I appreciate that Mr T2 has said that the local authority failed to follow this up, but that is not something I can hold Lloyds responsible for. If Mr T2 feels the local authority hasn't acted appropriately that's a matter for him to pursue with them. And Lloyds has said that any benefit payments not rightly due to the late Mr T1 can be reclaimed if the local authority or Department of Work and Pensions (DWP) confirm what needs to be refunded.*

*Overall, I think this is a reasonable way to resolve matters. So, I won't be asking Lloyds to take any further action in respect of this complaint unless it receives contact from the local authority or appropriate benefit agency.*

*I note Mr T2 has also mentioned his wages were also paid into Mr T1's account. And he's provided payslips dated in 2015. But given the activity on Mr T1's account, I can't safely say that any of the money in Mr T1's account when he passed away belonged to Mr T2.*

### **Responses to my provision decision**

Lloyds confirmed it had nothing further to add. Mr T2 didn't agree with my provisional decision. He provided several documents which he said supported his claim of fraudulent misrepresentation by the local authority.

### **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.

Mr T2 has said the documents he has provided support his claim of fraudulent misrepresentation by the local authority. But as I explained in my provisional decision, the actions of a local authority is not something I can consider as they don't fall under our jurisdiction.

My remit is limited to looking into whether Lloyds dealt with the accounts held by the late Mr T1 fairly when he passed away and when it was contacted by the local authority. And, for the reasons given in my provisional decision (which also form part of this final decision), I'm persuaded Lloyds acted fairly.

Mr T2 hasn't made any further representations about how Lloyds handled the late Mr T1's account when he passed away, so I see no reason to depart from my provisional decision as set out above.

So, I won't be asking Lloyds to take any further action in respect of this complaint unless it receives contact from the local authority or appropriate benefit agency.

### **My final decision**

For the reasons given above, and in my provisional decision, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mr T to accept or reject my decision before 18 December 2023.

Sandra Greene  
**Ombudsman**