

The complaint

Mrs C has complained Yorkshire Building Society allowed her to close her savings account with them and dispose of all her money whilst being the victim of familial abuse.

What happened

Mrs C is over 90 years old. One of her three daughters has been given power of attorney for financial matters by Mrs C. This daughter is Mrs K who represents her mother in this complaint..

Mrs C, accompanied by Mrs K, opened a savings account with Yorkshire on 30 November 2020. She was waiting to receive the proceeds from a house sale. She'd owned this property jointly with her husband who'd she'd left after an abusive relationship.

In March 2021 following distressing events, Mrs K visited the Yorkshire branch. She told them her mother had been taken by one of her sisters, Mrs L, who was trying to get the proceeds of the house sale for herself. She gave Yorkshire a crime reference number and underlined the seriousness of the situation.

Following that visit by Mrs K, Mrs C – along with Mrs L – tried three times to get Yorkshire to close Mrs C's account and make the funds available to them.

Initially on 25 March, Yorkshire were concerned that Mrs L continually talked over Mrs C which meant they were unable to get at the veracity of Mrs C's wishes. To minimise any financial harm, Yorkshire confirmed they would need evidence the funds were going to an account in Mrs C's name.

A further visit to a Yorkshire branch took place four days later. Yorkshire remained concerned and was alert to suggestions that the money should be going to an account held jointly with Mr C. Previous evidence from Mrs K had indicated Mrs C was a victim of abuse so this caused concern. Yorkshire was also concerned about contradictory stories they were given about where Mrs C was living. Again they confirmed they'd need to be sure the funds were going to an account in Mrs C's name.

On the day the account was closed, the branch visit was preceded by a phone call to check whether withdrawal would be possible. Yorkshire noted Mrs C was being fed responses by Mrs L so confirmed that the withdrawal and closure had to be completed in branch. In branch Yorkshire issued a cheque in Mrs C's sole name and closed her savings account.

Mrs C, along with Mrs L, then deposited a cheque for £100,770.17 with another financial institution (who I'll call H).

By the time Mrs K complained to Yorkshire about the account closure, Mrs C's savings account with H had been emptied.

Yorkshire didn't believe they'd done anything wrong as they believed they'd taken steps to protect Mrs C from financial harm. They confirmed they'd spoken to Mrs C alone and had

been satisfied she was making her own financial decisions and was not being coerced.

Mrs K brought her mother's complaint to the ombudsman service. She provided evidence to show Mrs C's health and wellbeing around this time.

Our investigator considered the evidence. She initially believed that Yorkshire should have done more to protect Mrs C and asked them to repay £100,770.17 along with interest that her money would have been paid if they'd remained in her Yorkshire account.

Yorkshire felt later medical issues were being taken into account when they couldn't have known about these at the time. They didn't feel they could have done more. Our investigator reconsidered her outcome and told Mrs K she wasn't going to ask Yorkshire to refund the money.

Mrs K's asked an ombudsman to consider Mrs C's complaint.

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've reached the same outcome as our investigator came to on 1 August 2023. I'll explain why.

Where there is a dispute about what happened, I have based my decision on the balance of probabilities. In other words, on what I consider is most likely to have happened in the light of the evidence.

When considering what is fair and reasonable, I'm required to take into account: relevant law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the relevant time.

The regulations which are relevant to Mrs C's complaint are the Payment Services Regulations 2017 (PSRs). These primarily require banks and financial institutions to refund customers if they didn't make or authorise payments themselves.

To help me come to a decision, I've reviewed the evidence Yorkshire provided as well as what Mrs K has told us.

Firstly I should say I appreciate how upsetting this must be for Mrs C and her family. The testimony given to us by Mrs K about the abuse and neglect her mother has suffered is distressing. I don't dispute her story that some form of financial abuse has more than likely taken place too.

Unfortunately that doesn't mean I can hold Yorkshire responsible for this. I say this because:

- At least twice, Yorkshire refused to provide funds to Mrs C or close her account. They were aware throughout the branch visits flags had been raised about Mrs C being manipulated and coerced.
- There's clear evidence that the branch took steps to discuss what they should do with their internal fraud team. A decision was made that to protect Mrs C from financial harm, her money could only be paid into an account in her name and any payment must be in her name.

- In the end, a financial institution is expected to follow its customer's instructions. After taking steps that I believe were adequate at the time, Yorkshire couldn't put off for ever closing Mrs C's account and not allowing her to have her money.
- Notes from the time Yorkshire issued a cheque to Mrs C suggests Mrs C *"didn't seem anxious in presence of these 2"*. Mrs C was in branch with Mrs L and her partner.
- Yorkshire's call notes between the branch and the internal fraud team don't provide a definitive view about how or whether they interviewed Mrs C alone. But I think they must have. However I don't anticipate that was easy as Mrs C had limited hearing and needed concepts explained to her carefully.
- Yorkshire had limited other steps to take once they were satisfied Mrs C had made plans to open another savings account. I believe they were aware this was due to happen the following day after her visit to the branch on 6 April.
- I believe Yorkshire were told continual visits to branch were costing Mrs C money, so I accept they were put under pressure to close the account.
- I have considered whether Yorkshire could have contacted Mrs K. It was her that first brought potential abuse to their attention on 24 March. However and unfortunately I think it would have been extremely difficult for Yorkshire to be put in a position to judge which sister (Mrs K or Mrs L) was telling the truth and which sister may have been taking advantage of Mrs C.
- I've similarly considered whether Yorkshire should have alerted the police. But their internal advice about invoking the Banking Protocol doesn't seem to apply here. And I suspect that the police would have seen an elderly and frail lady who was telling them she wanted to close her account. I note that the police has decided not to proceed with any criminal action despite Mrs K bringing her concerns about Mrs C's treatment to them.
- There is no dispute that Yorkshire – by providing a cheque in Mrs C's name – ensured that an account had to be opened in Mrs C's name. At the time this happened, all the money remained in Mrs C's possession.

Despite my sympathy for Mrs C's situation, I don't think it would be fair and reasonable to ask Yorkshire to do anything further.

My final decision

For the reasons given, my final decision is not to uphold Mrs C's complaint against Yorkshire Building Society.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 14 December 2023.

Sandra Quinn
Ombudsman