

The complaint

Mrs S complains that Bank of Scotland plc trading as Halifax moved money out of her ISA by mistake and without her authority.

What happened

Mrs S holds an ISA and a current account with Halifax. The ISA is and always has been held in Mrs S's sole name. The current account had been held jointly between Mrs S and a relative but, following the relative's passing, it has been held in her sole name. She says it effectively became the executors' account for her relative's estate.

In March 2021, Mrs S wrote to Halifax and asked it to transfer the balance of her relative's savings account into the current account. The transfer took place on 29 March. At around the same time, nearly £40,000 was transferred from Mrs S's ISA into the current account. A few days later, the recently credited interest was also transferred from the ISA.

Mrs S only found out that the funds had been transferred when she received a statement for her ISA in 2022 and queried the balance with Halifax. She says that the ISA funds were her own money and had nothing to do with her relative's estate. She says she didn't authorise the transfers and had no reason to take funds out of her ISA, as it meant she lost out on interest as well as losing the ISA status of those funds.

Halifax told Mrs S that the funds had been transferred online. But Mrs S says she didn't make the transfers. She says they were made by Halifax, by mistake and without instructions. She complained to Halifax, but it said that the transfers had been made using online banking. It acknowledged that Mrs S didn't think she had made the transfers. But it said she must have made them by mistake without realising.

Mrs S wasn't happy with Halifax's response and pointed out that there were a number of errors in its response letter. She said she hadn't ever asked for her ISA to be registered for online banking as she always gives instructions about it in writing. She said she didn't know that she could use online banking for her ISA. She was sure that the transfers were made by Halifax by mistake when it was dealing with her late relative's accounts. She said this had serious consequences because the Inheritance Tax payable on her relative's estate was based on the balance of the current account. This balance was wrongly inflated by the inclusion of the ISA funds and she says the estate paid too much Inheritance Tax as a result. She also says that too much money was paid out to the beneficiaries.

Halifax apologised for the errors in its letter and sent Mrs S a cheque for £100 for the upset and frustration they caused. But it maintained that it had no involvement in the transfer of funds from her ISA.

Mrs S remained unhappy with the situation and brought the complaint to this service. She said she had recovered the overpaid Inheritance Tax but had significantly overpaid a beneficiary. She is adamant that she didn't transfer the funds from her ISA and that Halifax did it. But Halifax says its Bereavement Team only dealt with the closing of Mrs S's relative's savings account. It says it had no reason to transfer funds from Mrs S's sole ISA and that

there is no indication in the notes it holds that the team took any action in relation to the ISA. It maintains that Mrs S made the transfer online by mistake.

Our Investigator didn't think Halifax needed to do any more here. But Mrs S didn't agree and asked for the complaint to be reviewed by an Ombudsman.

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.

The key issue here is whether the transfer of funds from the ISA was made by Halifax or not. Mrs S says it was. Halifax says it wasn't. Where the evidence is incomplete or inconclusive, as some of it is here, I've reached my decision on the balance of probabilities – that is, what I consider is most likely to have happened, in light of the evidence that is available and the wider surrounding circumstances.

I'm sorry to disappoint Mrs S, but I'm not going to uphold this complaint. I'll explain why.

Mrs S called Halifax on 28 March 2021. I've listened to the recording of this call, which Mrs S made because she had lost the password for her online banking. Halifax's agent sent a temporary password to Mrs S's phone and stayed on the line while she logged in. Halifax no longer has the online banking log from March 2021, which would show exactly when Mrs S logged in. But, based on this call, I'm satisfied that she logged into online banking on 28 March.

The ISA funds were credited to the current account on 29 March. But the evidence shows that the transfer was initiated on 28 March around 15 minutes after the call I've referred to above.

Mrs S says she didn't know she could operate her ISA online and had never done so, preferring to give instructions in writing. But I find that the ISA did have online access. So, once Mrs S was logged into her online banking, I think the ISA would have been available to view and she would have had the option to make transactions on that account.

Information from Halifax's system about the transfers from Mrs S's ISA includes an "*originating branch sort code*" and "*employee file number*". These numbers are the same for the transfer of the ISA balance on 28 March and the transfer of the interest a few days later. Halifax says that the sort code used here is the number for its processing centre. It says that transactions which are made online are given this code. As to the employee file number applied to both transactions, Halifax says it isn't actually an employee number. It says that the mix of numbers and letters in the code used here confirms that they were online transactions.

I've seen the equivalent information for the transfer of funds from Mrs S's relative's savings account to the current account on 29 March. It's accepted that this transfer was made by Halifax, in line with Mrs S's instructions. I'm satisfied that the sort code and employee file number allocated to this transaction are both different from the codes applied when money was transferred from Mrs S's ISA. The information about the transfer from the relative's account also includes a "*teller number*", whereas the ISA transfers do not. I find that this supports Halifax's position that it didn't transfer the funds from the ISA.

So does the fact that the entry on the current account statement for the transactions is different. The credit of funds from the relative's savings account is described on the statement as a deposit. The two credits from the ISA are described as transfers and the

descriptions include the date they were initiated. So, I find that the transfers from the ISA were made by a different method from the transfer of funds from the relative's account.

Mrs S is adamant that she didn't make the transfers from her ISA. I don't have all the information to explain exactly what happened here. But, on balance, I think it's likely that the transfers from the ISA were made online from Mrs S's online banking facility. I know Mrs S feels strongly about this. But, from the available evidence, I can't conclude that Halifax made these transfers. So, I'm not going to ask it to do anything here.

When Halifax responded to Mrs S's complaint, it sent her a cheque for £100 to apologise for the mistakes in its previous letter. I understand that the cheque hasn't been cashed yet. It remains open to Mrs S to do so if she now wishes to accept this payment. But, for the reasons above, I'm not going to ask Halifax to do any more.

My final decision

For the reasons above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 3 August 2023.

Katy Kidd
Ombudsman