

The complaint

The estate of Mr B is unhappy that Leeds Building Society ("LBS") wouldn't allow a withdrawal of money without a grant of probate.

This estate of Mr B's complaint is brought to this service by the executor of the estate, the widow of the late Mr B, whom I'll refer to as 'Mrs S'.

What happened

Mrs S went into LBS branch and asked that funds be released to her from her late-husband's account because she had no access to money and was low on funds. LBS initially agreed to release £1,000 to Mrs S, but then later changed their mind. Mrs S wasn't happy about this, so she raised a complaint.

LBS responded to Mrs S and explained that they require a grant of probate to be obtained and provided to them before they will release money from the accounts of a deceased account holder. LBS also noted that they had looked to make an exception in Mrs S's case, because she had explained that she was short of funds and had no access to money.

However, when LBS looked into the matter, they found that Mrs S had an ISA account in her name which LBS offered to allow her to withdraw money from penalty free. As such, given that Mrs S did have access to money, LBS didn't feel that there were exceptional circumstances in this instance, and that therefore their requirement for grant of probate to be obtained should remain in place. Mrs S wasn't happy with LBS's response, so she referred her complaint to this service.

One of our investigators looked at this complaint. But they didn't feel LBS had acted unfairly in how it had managed the situation and so didn't uphold the complaint. Mrs S remained dissatisfied, so the matter was escalated to an ombudsman for a final decision.

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.

I also note that Mrs S has provided several submissions to this service regarding her complaint. I'd like to thank Mrs S for these submissions, and I hope she doesn't consider it a discourtesy that I won't be responding in similar detail here. Instead, I've focussed on what I consider to be the key aspects of this complaint, in line with this service's role as an informal dispute resolution service.

This means that if Mrs S notes that I haven't addressed a specific point she's raised, it shouldn't be taken from this that I haven't considered that point – I can confirm that I've read and considered all the submissions provided by both the estate of Mr B and LBS. Rather, it should be taken that I have considered that point but that I don't feel it necessary to address it directly in this letter to arrive at what I consider to be a fair resolution to this complaint.

It also must be noted that this service considers the estate of Mr B as the eligible complainant here, and not Mrs S herself in her personal capacity. This is because the complaint relates to accounts held in the name of the late Mr B, and because at the time of the events about which Mrs S complains, Mrs S's authority to access those accounts was dependent on her status as the executor of the estate of Mr B.

LBS have explained that, as per their process, they require grant of probate to be obtained and provided to them before they will allow funds held within an estate's account to be released to the estate's executors. And I'm satisfied that this process isn't unreasonable or unfair and that it's a commercial decision that LBS are entitled to make as to what its process in regard to estate accounts should be.

LBS also explained that they were willing to make an exception to their process in this instance because Mrs S had explained that she had no funds and no access to money. But LBS also explain that their decision to make an exception to their process was dependent on the circumstances that Mrs S described to them being accurate.

But those circumstances weren't accurate, because Mrs S had an ISA account in her name and so did have access to the money held in that account. And while I can appreciate that Mrs S didn't want to withdraw any money from her ISA account, I don't feel that Mrs S's unwillingness to do so should fairly or reasonably compel LBS to apply the exceptional circumstances clause and to act out of accordance with its own estate accounts policy.

I also note that LBS confirmed to Mrs S that they would allow her to withdraw money from her ISA account on a penalty-free basis because that account represented her only access to money at that time. This feels fair to me, and I feel that it demonstrates that LBS did take Mrs S's circumstances into account and tried to assist her.

Ultimately, it seems to me that Mrs S's complaint here is that LBS should have respected her wish to not have to withdraw money from her ISA account and, as a consequence, should have allowed her to access the money in the estate of Mr B's account without a grant of probate being obtained and so without LBS's requirements for her to do so being met.

But I don't agree. Mrs S had access to money in her own name. And I feel it's fair that she should be expected to withdraw the money in her own account rather than expecting LBS to allow her access to money in accounts owned by the estate which she hadn't yet met LBS's requirements to be able to access in her role as executor of the estate of Mr B.

On a personal level, I appreciate the events under consideration happened at a difficult time for Mrs S, and I offer my condolences for her loss. But in my professional capacity as an ombudsman, whereby I must be impartial and consider the eligible complainant here to be the estate of Mr B and not Mrs S in her personal capacity, I don't feel that LBS have done anything wrong or unfair here and so I won't be upholding this complaint.

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 the estate of Mr B to accept or reject my decision before 21 November 2023.

Paul Cooper
Ombudsman