

The complaint

Mr H complains that Bank of Scotland Plc trading as Halifax made errors with how a Lasting Power of Attorney (LPOA) was registered and they did not follow specific instructions.

Mr H is represented by his attorneys in bringing this complaint. But for ease of reading, I'll refer to any submission and comments they have made as being made by Mr H himself.

What happened

Mr H says that when the LPOA was registered with Halifax on 16 August 2022, despite specific instructions as to how the account should be operated, these instructions were not followed, such as no correspondence should be sent to Mr H's address they had on the system, as he did not reside there anymore, so any post should be sent to the care of address for one of the attorneys, and both telephone numbers were given by the attorneys for Halifax to record these on their system. The attorneys later found out that correspondence for Mr H had been sent to his former address (including debit cards), and one of the cards had an attorney incorrectly named along with a cheque book.

When one of the attorneys tried to access Mr H's account, he was unable to, so he contacted Halifax and after a series of calls lasting over two hours, he found out Halifax had incorrectly stored his telephone number. Again, the same attorney later tried to access Mr H's account, but he was still unsuccessful due to the mobile number the system wanted to send a text to. Mr H made a complaint to Halifax.

Halifax upheld Mr H's complaint and they offered £160 compensation. They said they accepted the version of events that Mr H gave them. They said the attorneys were told Mr H's address was updated, so it was completely understandable that they were very upset when letters were sent to the old address. They were told the issues wouldn't take long to fix, but there were still errors after this. One of the attorneys had errors on the card, cheque book and other correspondence Halifax sent to her. Mr H brought his complaint to our service.

Our investigator said £160 was a fair offer for what happened. Mr H asked for an ombudsman to review his complaint. He made a number of points. In summary, one of his attorneys said that Halifax did not respond to the two reminder follow up letters he sent them, the results could have been catastrophic if the documentation would have fallen into different hands, and further mistakes occurred after they were offered first £100 compensation, and then £160, so he says that the offer of compensation is not adequate.

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 H has made a number of points to this service, and I've considered and read everything he's said and sent us. But, in line with this service's role as a quick and informal body I'll be focusing on the crux of his complaint in deciding what's fair and reasonable here.

I must make Mr H aware that our rules only allow us to make awards for distress and inconvenience for eligible complainants. Mr H is an eligible complainant. But his attorneys, acting in their role as his attorneys aren't eligible complainants as part of this complaint. A Power of Attorney is authorised in law to represent consumers, and unless they are eligible complainants in their own right, we wouldn't award compensation for impact caused to them personally. Impact caused to attorneys could have a knock on effect to a consumer – but having attorneys can also shield them from detriment.

Halifax have not disputed the chain of events that Mr H's attorneys have given. It's clear that there were multiple errors which were made, which shouldn't have been made. I've also considered what has happened with the reminder letters one of Mr H's attorneys sent Halifax. I've looked at the system notes, and I can't see that Halifax received these reminder letters. But I'm also mindful that these letters were sent after Halifax had issued their final response. So even if they had received the follow up reminder letters, they are not obliged to act on these when they had already given their final response and Mr H was free to bring his complaint to our service.

I have considered that Mr H could have suffered some financial loss due to the incorrect telephone numbers being recorded for his attorneys which meant one of them could not access Mr H's account in order to open new savings accounts to make the most of Mr H's money. This would affect the eligible complainant directly. It's not clear of the exact date when the attorneys wanted to move Mr H's money directly to new savings accounts, and I note there were two accounts where transfers were made over three weeks apart, so I can't say that both transfers would have been made at the same time if access had been granted when it should have been originally.

But I am mindful that when the LPOA was registered, this was mid-August 2022. From Mr H's attorneys follow up letter it appears he tried to access the account on 24 August and 30 September 2022. But the funds were moved for a two year fixed rate Individual Savings Account (ISA) on 29 November 2022, and for a one year fixed saver on 21 December 2022. So there was a delay from when he accessed Mr H's account to when the money was moved.

It appears that because of the delay, that Mr H was financially better off though as a result of this delay, and I'll explain why. It looks like the two year ISA was opened elsewhere, so I can't say what interest rate he would have gotten in August-September 2022 if he had moved the funds around this time. But I do note that the Bank of England base rate increased from 1.75% (what it was when the LPOA was registered), to 2.25% on 22 September 2022, to 3% on 3 November 2022. While I acknowledge that savings rates don't always move in line with the Bank of England Base rate, it appears that Mr H would have gotten a much better interest rate in November 2022 when the funds were moved on 29 November 2022, then if the interest rate would have been fixed for two years in August or September 2022, especially if he was comparing interest rates with third parties.

For the Halifax account that Mr H opened on 21 December 2022, I've looked at Halifax's website for the historic interest rates on that type of account. The historic rate shows that if the account was opened between 21 September-10 October 2022, then the interest rate payable would have been 1.5%. But if the account was opened between 6 December 2022-17 January 2023, and Mr H had a Halifax personal current account open from at least 1 November 2022 (I checked the opening date and Mr H opened his Halifax current account in 2016), then he would receive 4.15% interest.

I have considered the funds in Mr H's current account may not have earned much or any interest while it was waiting to be moved to a new account, but due to the delays, this would have been offset by Mr H being able to fix his interest rate at more than two times the

interest rate he would have gotten if Mr H's attorney had access to his account when he tried to both times. So I can't fairly say that Mr H suffered a financial loss due to Halifax's errors. The evidence would show he benefitted financially because of the delays, although Halifax would be expected to get things right first time.

I've considered what Mr H's attorney has said about the results could have been catastrophic if the documentation could have fallen into different hands. But here, I can only consider what did happen, not what might have happened.

So I've considered what would be a fair outcome for this complaint. It could be argued that Mr H was shielded by his attorneys for most, if not all that happened, as he wasn't inconvenienced by waiting on the phone for hours, it wasn't his telephone number incorrectly recorded, and it wasn't his letters not being responded to. But I do have a great deal of sympathy for the impact of what happened to his attorneys and the distress and inconvenience they had acting in their role as an attorney.

But I'm persuaded that the offer Halifax made Mr H was fair. While I take onboard that errors may have occurred after the compensation was offered, our service would look at everything as a whole and assess what compensation we would award based on our rules and awards. Based on our rules and awards, I can't say that further compensation is due for Mr H, and I'm unable to consider awards for distress and inconvenience for Mr H's attorney's acting in their roles as a Power of Attorney, which they were here. So Halifax should pay Mr H what they offered him (less anything they have already paid), but it follows I won't be asking them to do anything further.

My final decision

Bank of Scotland plc trading as Halifax has already made an offer to pay £160 for distress and inconvenience to settle the complaint and I think this offer is fair in all the circumstances.

So my decision is that Bank of Scotland plc trading as Halifax should pay Mr H £160 compensation (less anything they have already paid him). But I won't be requiring them to do anything further.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 16 January 2024.

Gregory Sloanes
Ombudsman