

## **The complaint**

Mr P complains as the executor of the estate of Mrs P, his late mother, that Yorkshire Building Society (YBS) released account statements to his sister when she had no authority to receive them.

## **What happened**

Mrs P passed away in October 2022. The executors appointed by her will were Mr P and his brother. Their sister was estranged from the family, and this was made clear in Mrs P's will. From 2014 the three of them had acted under a joint power of attorney in respect of Mrs P's affairs. This was revoked in 2020 and a new power of attorney was issued to Mr P and his brother, and registered with YBS.

Mr P's sister lodged a caveat to prevent probate being granted. She then wrote to YBS indicating her concern that large cash payments had been taken out of Mrs P's account, producing an old statement showing this. She asked for the statements from 2016 onwards. She produced a copy of the original power of attorney and copy death certificate as her authority. YBS released the copy statements to her.

Mr P later found out that these statements had been released to his sister when he received a letter from her setting out particular amounts on the statements. He contacted YBS who, on legal advice, admitted that it was wrong to have released the statements to Mr P's sister. It paid compensation of £150.

Mr P did not accept this and advised that his sister's actions had had a huge impact on him, particularly his mental health. He also advised that although probate had been granted, the caveat remained. In particular he has been unable to sell Mrs P's house which stands empty, nor has he been able to sell her share in her retirement apartment, although the rent in respect of this continues to accrue. He believes that if YBS had not wrongly released the statements, he would have been able to sell the properties and the estate would not have a continuing loss.

On referral to the Financial Ombudsman Service, our Investigator said that YBS shouldn't have released the statements. However given that the caveat had already been issued at the time Mr P's sister wrote to YBS and that she had raised concerns in that letter about cash payments from Mrs P's account, our Investigator thought it unlikely that the wrongful release of the statements, had caused any financial loss. She pointed out to Mr P that as a representative of the estate he was not entitled personally, in respect of the Financial Ombudsman Service's powers, to any compensation for distress and inconvenience.

Mr P did not agree. He accepted that whilst YBS may not have been directly responsible for financial losses to the estate, by releasing the statements which had transactions in his name this had a direct impact on him personally because it allowed his sister to use them as a weapon against him. He also asked us to consider what would have happened had the statements not been released.

The matter has been passed to me for an Ombudsman's consideration.

## **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.

Firstly I have to reiterate Mr P's position, and my powers to award compensation. He acts as a representative of the estate of Mrs P. I don't have the power to require YBS to pay compensation to him personally for any distress and inconvenience he has suffered. I don't in any way make light of that as he has told us that his sister's actions have had a horrible personal impact on him. He refers to transactions showing his name on Mrs P's statements and argues that without YBS's actions, his sister would not have seen those and been able to use them against him. But he still is not a customer of YBS in respect of Mrs P's account, so still would not be an eligible complainant in his own right, under our procedures.

YBS clearly should not have released the statements to Mr P's sister. In its defence it indicates that it had not previously been advised of Mrs P dying. And it may well have been persuaded that Mr P's sister had some authority to request the statements. Set against that is the fact that the updated power of attorney was clearly on its records.

As Mr P has said I have to consider the consequences of YBS having released those statements. But only insofar as this affected the estate of Mrs P. And I have to reach my decision on the basis of what in my opinion here is most likely to have happened because of those statements being released. I have taken account of the fact that, before receiving the statements, Mr P's sister had already lodged a caveat, and when she wrote to YBS she was already in possession of an old statement setting out the cash transactions which she said she was concerned about. So I don't think it's likely that probate would have gone through without any problems. And, although I don't know the full details of any action Mr P's sister might be taking, I don't think it's likely that the release of the statements to her has directly affected Mr P's ability to sell Mrs P's properties.

Mr P has asked that I consider what would have happened had the statements not been released. But as I've indicated above, I don't think that would have changed the course of probate because Mr P's sister was already challenging that.

Taking my above findings into account, I think that the payment of £150 to the estate of Mrs P was fair and reasonable compensation.

## **My final decision**

As I think that Yorkshire Building Society has dealt with this complaint fairly, I will make no order against it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P and the estate of Mrs P to accept or reject my decision before 14 February 2024.

Ray Lawley  
**Ombudsman**