

The complaint

Mr and Mrs M complain that TSB Bank plc (TSB) failed to do enough to protect Mr M, leading to fraud occurring on his accounts.

The activity occurred on an account jointly held by Mr and Mrs M, as well as an account in Mr M's sole name. They are therefore the eligible complainants. However, Mrs M and Mr M2 (Mr and Mrs M's son) are authorised to act on behalf of Mr M in this matter.

What happened

The details of this complaint are well known to both parties. But I've summarised the key events to give context to my decision.

In September 2022, Mr and Mrs M's daughter, F, was visiting from abroad. She and Mr M went to a TSB branch, and Mr M's contact number was changed to her number. It appears Mr M's ID was provided to verify the change, but Mr M2 says the ID was out of date. He also says Mr M's online banking details were reset during this visit. That is denied by the branch staff who served Mr M and F.

Shortly after, a £711 payment was sent to a solicitor from Mr and Mrs M's joint account. Mrs M didn't recognise the payment so reported it to TSB. It found the payment had been made using Mr M's online banking. Mr M2 contacted the solicitor and found they had been hired by F to help set up deputyship for Mr M. They returned the payment a few days after it was taken. Mrs M complained about TSB's service during this incident, and it paid her £75 compensation.

The incident led Mr M2 to check Mr M's other accounts. He found £15,000 had been sent from Mr M's sole account to F, again via online banking. TSB had flagged the initial transfer from Mr M's savings account to his current account for checking. I've listened to a call in which it spoke to both Mr M and F. She said she was helping Mr M with his banking, and he was moving over money to pay for his care fees.

Mr M2 reported F to the police. When they interviewed her, she said she was unhappy with Mr M's support so was going to use the money to pay for a care home. But she hadn't spent it yet, so agreed to return it. It was sent back from her account to Mr M just under four weeks after it had been taken. I understand F accepted a caution for using Mr and Mrs M's account to pay the solicitor initially.

Mrs M and Mr M2 subsequently registered lasting power of attorney for Mr M with the Office of the Public Guardian and TSB. They complained on Mr M's behalf about what had happened on his account, in addition to the complaint already raised by Mrs M about the payment taken from their joint account. TSB ultimately agreed to pay a further £350 compensation along with £20 to cover any lost interest, plus £4.50 to cover Mr M2's parking costs when visiting branch.

Unhappy with this response, Mrs M and Mr M2 (on Mr M's behalf) referred the complaint to our service. In broad summary, they said TSB was aware of Mr M's health issues affecting his capacity so should have done more to protect him. They also felt TSB's service had been poor. They thought it should offer further compensation.

Our investigator looked into things. They couldn't find enough to support that TSB had been on notice of concerns about Mr M's capacity prior to these payments. Nor did they find anything to substantiate that his internet banking details had been reset by the branch. But they thought TSB probably ought to have done more overall – noting F had raised issues around Mr M's capacity during the call. They thought this was a missed opportunity to do more to protect him. So, they considered the impact this had.

The investigator was satisfied Mr M (and Mrs M) weren't left out of pocket. They also thought the compensation offered was fair – explaining they could only consider the impact on the affected account holders, not Mrs M and Mr M2 in their capacity as Mr M's attorneys. They didn't recommend further compensation should be paid.

Mrs M and Mr M2 have appealed the investigator's outcome, so the case has been passed to me. In brief summary, Mrs M and Mr M2 think TSB should have been more proactive about Mr M's vulnerability, which they said Mrs M had previously reported in branch. They also mentioned service issues such as a delay updating Mr M's contact number. They're unhappy outdated ID was used in branch, and that CCTV wasn't provided. They've suggested Banking Protocol ought to have been invoked during Mr M and F's branch visit.

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 come to the same outcome as the investigator. I'll explain why.

I appreciate Mr M2 has made detailed submissions to our service, which I've read and considered in their entirety. However, I won't be responding in similar detail. If I don't mention a particular point or piece of evidence, that's not because I haven't taken it into account. It's just that I don't believe it necessary to reference it to explain my decision, which is focussed on what I consider to be the main issues. This isn't intended as a discourtesy. It's a reflection of the informal nature of our service.

It seems to me the key issue here is whether TSB ought to have been able to prevent F from making these payments. I've started by considering the branch visit. Overall, I'm satisfied TSB acted fairly at this point.

While I appreciate Mrs M and Mr M2's concerns about what happened at this point, I'm not persuaded TSB ought to have had concerns about what was happening. On balance, I've not seen enough to support the assertion that TSB were aware of Mr M's health concerns.

I appreciate Mrs M says she visits weekly and had been updating TSB on Mr M's condition. But the account notes don't capture that, and there is no mention of any capacity concerns in the notes. I agree not every interaction may have been captured. But I consider it likely serious or significant issues like this would probably have been noted.

Looking at those branch visits that were captured, I can't see any where it appears likely they would have been focussed on Mr M's capacity. There aren't any records of Mrs M using, or attempting to use, Mr M's sole account – as you might expect if he couldn't do this himself. More widely, no arrangements were put in place to manage Mr M's financial affairs. The lasting power of attorney wasn't registered until several months after these events.

Furthermore, the branch staff who served Mr M and F reports they didn't have concerns around his conduct. They didn't think he appeared under duress or lacking capacity. While we haven't been provided with the CCTV, I'm not persuaded that would have provided further insight – bearing in mind audio wouldn't have been captured.

While Mr M says the internet banking details were amended at this point, that is denied by the staff. I think it's unlikely this would have been done in branch. Given F's contact/access with Mr M, it seems at least as likely F would have been able to reset this later on. So, it appears the interaction was likely limited to changing Mr M's phone number.

In those circumstances, I'm not persuaded there's enough to show TSB ought to have had further concerns. Only the phone number was being changed; money wasn't being moved. I'm therefore not persuaded TSB had cause to take further action at this point, as Mr M2 has suggested it should have (such as calling the police). Even accepting the ID used was likely out of date, it appears this was still his genuine ID. So, I can see why it was accepted for this type of amendment.

In isolation, I don't think the £711 payment from Mr and Mrs M's joint account looked concerning. The only unusual factor was that it was made on Mr M's online banking, which he didn't normally use. But I don't think that alone seemed particularly suspicious. However, TSB did identify the £15,000 transfer from Mr M's savings, which funded the onward transfer from his sole account, as unusual – and it called Mr M. Having listened to this call, I do think what F said about Mr M's circumstances arguably ought to have given TSB concern over his capacity to understand what was happening with his finances. So, I do think TSB probably should have done more at that point.

If TSB had taken action to protect Mr M at that point, it's possible the payments could have been prevented. So, I've considered what impact this had on Mr M – to assess whether the action TSB has taken since has adequately addressed this impact.

Both disputed payments have now been returned. And TSB has paid £20 to cover any lost interest for the period of just under four weeks when the £15,000 wasn't accruing interest in Mr M's savings account. I'm satisfied that covers the financial loss incurred.

Mr M2 has repeatedly suggested scepticism that the returned funds came from F, and has suggested they were instead paid by TSB. On the information I've seen, I'm satisfied they came from F. Regardless, the issue we're looking at in this respect is the loss to Mr M. And it's undisputed he's no longer left at a loss.

When considering the remaining impact – it's important to note I can only consider the impact on Mrs M in relation to the £711 payment taken from her joint account with Mr M. I can also consider the impact on Mr M in relation to that incident, as well as the £15,000 payment taken from his sole account. But I can't consider any impact on Mrs M or Mr M2 *in their capacity as Mr M's donors*.

It does appear that, due to Mr M's condition, he was likely unaware of the extent of the disruption this incident caused. It appears it was mainly dealt with by Mr M2. He was the one who attended branch, for which TSB has paid him for his travel/parking costs. And it appears the total of £350 awarded for the issues relating to Mr M's sole account were prompted largely by issues causing inconvenience to Mr M2, such as changing the contact number.

Looking at the testimony and evidence Mr M2 has submitted to us to explain why he disagrees with the investigator's outcome, it seems this is largely because he disagrees with the investigator about the extent of the errors he considers TSB made. But there is not much to show how these caused Mr M undue distress and inconvenience beyond that which TSB has already paid compensation for.

I've considered the overall compensation paid holistically. Considering the submissions by/on behalf of Mr and Mrs M, I'm not persuaded the unavoidable impact on them warrants compensation beyond the £425 already paid. I can't consider the impact on Mr M2. And I also agree with the investigator that, even if TSB had done more to look into Mr M's circumstances off the back of its call with him and F, some of the events that have occurred since – such as the family dispute over Mr M's arrangements and registering the power of attorney – wouldn't have been avoided. So, I'm not persuaded TSB ought to pay further compensation.

My final decision

For the reasons given above, my final decision is that TSB Bank plc has settled this complaint fairly.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs M to accept or reject my decision before 10 April 2024.

Rachel Loughlin
Ombudsman