

The complaint

Ms H complains in her capacity as Executor of The estate of Mrs H, that The Co-operative Bank plc trading as Britannia (Britannia) failed to carry out instructions to close all of her late mother's accounts in 2014.

What happened

Ms H has elected that Mr W deals with the issues surrounding this complaint. Mr W says he along with Ms H accompanied the late Mrs H when visiting a branch of Britannia in 2014 and recalls Mrs H handing in a number of passbooks to the counter staff requesting the closure of all of her accounts.

Mr W says that despite this instruction Britannia failed to carry out this request and left open an Individual Savings Account (ISA) with a balance of circa £5,000, which was closed by the late Mrs H's appointed Court of Protection Receivers in June 2021 and transferred to their bank account to pay for legal fees.

Ms H says these funds were intended for the late Mrs H's grandchildren. Mr W says Britannia's failure to carry out the late Mrs H's instructions to close all her accounts in 2014, has resulted in the loss of the monies due to the estate. Ms H and Mr W want Britannia to reimburse the estate with the full balance of the ISA closed in 2021.

Britannia says in September 2014 it closed a separate flexible saver account for the late Mrs H but has no record of being asked to close the ISA in her name. Britannia says the ISA was a passbook-based account so bank statements wouldn't have been sent and it wouldn't necessarily put in writing any changes to interest rates, as the only method. Britannia says it correctly closed the ISA in June 2021 following a request from the appointed Receivers at the Court of Protection.

Ms H and Mr W weren't happy with Britannia's response and referred the matter to this service.

The investigator looked at all the available information but didn't uphold the complaint. The investigator says there are different versions of the events that happened in the branch visit in 2014 and she could only weigh the evidence against the balance of probabilities.

The investigator says she could find no evidence that instructions had been given to close the ISA and given the time passed there weren't any back-office notes from Britannia to show this and there's no obligation for it to keep records for more than six years. The investigator felt in all likelihood the late Mrs H would have been aware the ISA hadn't been closed.

The investigator felt Britannia had acted correctly when it closed the ISA in 2021 on the instructions of the solicitors appointed under a Court of Protection order. While the investigator understood Ms H and Mr W hadn't seen any communications from Britannia, she felt Britannia weren't obliged to have communicated with them leading up to the passing of Mrs H.

The investigator felt she couldn't ask Britannia to take any further action here.

Ms H and Mr W didn't agree with the investigator's view and asked for the matter to be referred 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.

Having done so, I won't be upholding this complaint and I will explain how I have come to my decision.

I can understand it would have been upsetting for Ms H and Mr W to discover funds in an ISA which should have formed part of the late Mrs H's estate, had been sent to appointed solicitors to pay for legal fees in 2021, despite the fact instructions were given to Britannia in 2014 for all of her accounts to be closed.

When looking at this complaint I will consider if Britannia acted fairly when it transferred the late Mrs H's ISA balance to the appointed firm of solicitors in 2021 and if there is evidence to show this account should have been closed in 2014, following a branch visit by the late Mrs H.

Both Ms H and Britannia have provided this service with comprehensive details of the course of events here and while that has proved helpful, I won't be commenting on every point made as I don't feel it's necessary in order to come to a full and impartial decision here. That's not to say I haven't considered everything – I have. But it's just that I don't need to comment on each individual point here in order to reach a decision on what's fair and reasonable.

Ms H and Mr W are unhappy with the issues they faced obtaining the information from Britannia regarding their complaint. That said the centre of this complaint surrounds the fact Britannia were instructed by the late Mrs H, during a branch visit in 2014, to close all of her accounts with them. Ms H and Mr W says its failure to do so has led to an ISA to remain open and the balance of close to £5,000 being taken in legal fees, rather than to the estate for distribution to the due beneficiaries. Ms H and Mr W have also made the point Britannia never at any point informed them or the late Mrs H prior to her passing, the ISA remained open.

The first thing to say here is given the time that has passed since 2014 when Ms H and Mr W says verbal instructions were given to close all the late Mrs H's accounts, it was always going to be challenging as clear documented evidence is unlikely to be available given this happened over 10 years ago. As the investigator pointed out, to some degree given the conflicting version of events here, I can only base my decision on the evidence that is available or the balance of probabilities here.

From what I understand the late Mrs H's ISA was a passbook-based account so regular statements wouldn't be produced here, and Britannia have confirmed any account changes wouldn't necessarily have been produced in written form.

Mr W has commented, why was it all the other accounts were closed following the branch visit in 2014 but not the ISA?. While I understand the point he makes here, what I'm being asked to say is because the ISA wasn't closed Britannia made a mistake here, but I'm not fully persuaded by this argument. Firstly, from the information I have seen, the late Mrs H maintained a banking relationship with Britannia/ Co-op post 2014 with three other accounts

being closed in 2015 and 2018. Additionally, back-office notes seem to indicate Mr W visited a branch in 2016 to discuss the opening of an account in order to manage her accounts. So, with that in mind it's reasonable to assume he and or Mrs H were aware a relationship still existed at that point and not all the accounts had been closed.

That aside, it's also reasonable to suggest that if the late Mrs H had asked Britannia in 2014 to close all the accounts including the ISA, in all likelihood it would have been explained to her she would lose the tax-free status on her savings unless this was transferred to another ISA provider, who in turn would have needed to instigate the transfer not Britannia. Of course, it's not possible to be certain what happened or what was said at that time, but from the records I have seen there's no clear evidence the closure of the ISA was discussed, and it seems only one account was closed at that time, a flexible savings account.

So, while I can understand how upsetting this has been for Ms H and Mr W, I can't say with any certainty Britannia have made an error here for the reasons I have already explained. I am satisfied here that Britannia acted reasonably when it closed the late Mrs H's ISA and transferred this to her appointed solicitor under the Court of Protection Order in June 2021.

While Ms H will be disappointed with my decision, I won't be asking anymore of Britannia here.

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 Mrs H to accept or reject my decision before 17 December 2024.

Barry White
Ombudsman