



## Case study: Investment/Funds

### INADEQUATE BANK CHECKS LED TO FRAUDSTERS ACCESSING CUSTOMER ACCOUNTS

Themes: Internal fraud controls; inadequate policies and procedures; reimbursement of legal expenses.

This complaint related to a bank's inability to prevent a fraudster accessing and removing all the funds from a complainant's husband's bank account.

In 2015 Mrs X's husband passed away, after which Mrs X contacted the bank and provided them with her late husband's death certificate. The bank placed a "deceased marker" onto Mr X's accounts which meant any attempted transaction would be referred to the bank's bereavement team for approval.

In 2016, the bank's bereavement team wrote to a person who they believed was Mrs X, using the residential address on file. This was not in accordance with their usual process and this communication was intercepted by a fraudster.

In 2017, the bank's bereavement team received a letter purportedly from Mrs X asking for her contact information to be amended on the account. The bank's bereavement team failed to verify these details and subsequently provided the fraudster with Mrs X's late husband's banking documentation, personal information, investment details, and advice as to how to remit funds and how to obtain probate.

The fraudster then appointed a solicitor to act as power of attorney in respect of Mr X's estate. This solicitor, using the documentation supplied by the fraudster, requested the bank to transfer all the funds to an overseas account. This included funds from Mr X's account valued at approximately £250,000 and funds from a local investment portfolio which had a combined value of £100,000.

The real Mrs X contacted the bank regarding the unrecognised transfers from the account and a complaint was raised. This was the first time the bank was made aware of the fraud. The bank's fraud team investigated and made an offer to the real Mrs X to refund the value of the account and the value of the investment portfolio. Mrs X rejected this, believing the valuation of the local investment portfolio to be incorrect and raised a complaint with the bank providing them with a valuation report that quoted a much higher valuation. The bank sent a final offer to restore the account funds to what they were prior to the fraud and a further £2,500 for distress and inconvenience. Mrs X rejected this offer and took her complaint to CIFO requesting not only a refund and compensation but also reimbursement of her legal costs incurred in her dispute with the bank.

CIFO reviewed the valuation that Mrs X relied upon for her claim and found this was based on an out-of-date investment report. The bank had sent an up-to-date report to Mrs X in 2019. CIFO also noted that the bank acknowledged the fraud was due to its own mistakes. With the help of CIFO the bank re-assessed its previous offer. The bank provided a new offer of approximately £390,000. This included the account funds, provision of an 8% interest rate to compensate for deprivation of the transferred account funds during the ensuing period, the local investment portfolio value, the

opportunity cost (loss of investment return) incurred in the investment account during the time taken to deal with the complaint, and a £2,500 payment for distress and inconvenience. Having upheld the complaint, CIFO reviewed the bank's new compensation offer and concluded that the revised total compensation was fair and reasonable under the circumstances.

With respect to the complainant's claim for reimbursement of legal costs, CIFO's general approach is not to compensate complainants for legal expenses unless there was a reasonable basis for engaging legal counsel to pursue the complaint. CIFO's service is free and informal and does not require legal representation. CIFO therefore suggested that Mrs X pursue her claim for reimbursement of legal costs through other means, including the courts, though the bank agreed to negotiate with the complainant to reach an agreement on this one remaining aspect of the complaint.