BOS Banking Ombudsman Scheme

Quick Guide

Children’s accounts

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Children don’t have unrestricted use of bank accounts. Nor are they free to open bank accounts on their own. To do that, they need an adult’s involvement. The role of adults (usually the parents) is to decide what type of account would be best for the child. They also decide who can have access to the account.

The rules governing who can operate an account are set out in a document called an account mandate (also known as an account signing authority). An account mandate spells out who has access to an account and how that access will work. Parents may decide they alone will have access to the account. Or they may decide to operate the account jointly with the child. Or they may choose to give the child (depending on age) sole access.

We sometimes receive complaints from parents concerned that their child has been able to access an account without their knowledge or authority. We also receive complaints from one parent that the other (usually estranged) parent is operating their child’s account in a way the first parent does not approve of. In such cases, we check the account mandate because it records the parent or parents’ intentions at the time of the account’s opening about how the account is to be used.

Understanding clearly who has signing authority is vital to avoid a child or parent operating an account (or spending the funds in it) in a way that is contrary to everyone’s expectations at the time the account was opened.

Types of children’s accounts

Banks offer accounts geared specifically to children.[1] Such accounts have different restrictions about control of the account. The restrictions are usually related to a child’s age.

A parent will generally operate an account for a very young child (say, under seven). As the child gets older, the bank’s terms and conditions usually allow a wider range of activities, such as making withdrawals, setting up internet banking and getting a debit card. Children closer to adult age typically can open and manage their own savings accounts, do internet and phone banking and use ATMs to access their accounts.

Parents can also open a standard savings account in a child’s name, but with themselves as sole signatories of the account. They can also open an account, with themselves and the child as joint

[1] Children are deemed minors until the age of 18, when they become adults.

account holders. Finally, they can even open what is, in effect, a kind of trust account: an account in their names (allowing them full access to the funds in it), but on the understanding those funds are to be used for the benefit of the child.

Bank obligations

Banks must give accurate – and sufficient – information to parents about the types of children's account they offer so parents can make an informed decision about which type of account will best suit their needs.

Banks have the same obligations to under-18 customers as they do to adult customers: they must be fair and reasonable in their dealings and must act on customers' instructions in accordance with the account mandate.

Ownership of money in a child's account

In general, the account holder owns the funds in an account. Therefore:

- If an account is in a child's name, the child owns the funds.
- If a parent and a child are joint account holders, the parent *and* child are joint owners of the funds.
- If a parent is a signatory to an account, but not an account holder, the parent does *not* own the money (although he or she has control over how the account is operated while still a signatory).
- A child who is the sole account holder can, on reaching 18, change or remove the signatories and operate the account alone.

Complaints about children's accounts

Most complaints we receive are about who controls or has access to accounts. Typical complaints include:

- A parent has asked a bank to set up a children's account in a way that prevents a child from accessing the account on his or her own, but the child has nonetheless been able to withdraw money.
- A bank has not given a parent good advice about the best way to set up a children's account, and the child or other parent has used the funds in the account for purposes other than those the first parent had in mind when setting up the account.
- A bank has allowed one parent, following a relationship breakdown, to remove the other parent from the account mandate, or withdraw the money in the child's account, or close the account.

When parents complain that, contrary to their intentions, a child has been able to access an account and spend the money in it, the problem is usually either that:

- the account mandate was set up to allow the parents *or* the child to operate the account – a fact the parents were unaware of or had forgotten, or
- the bank failed to set up the account properly or allowed withdrawals to be made contrary to the account mandate.

In looking into such complaints, we check:

- the information the parents gave the bank when setting up the account
- the account's terms and conditions
- the account mandate.

(We conduct the same checks when one parent complains that the other has withdrawn funds from a child's account or closed the account.)

Sometimes we will find that a bank set up an account that did not correspond with what the parents said they needed.

Compensation

Parents sometimes regard funds withdrawn and spent by a child contrary to their wishes as "lost" money, and they seek full reimbursement. However, we do not necessarily regard money spent by a child as a loss if the account is in the child's name. In depositing money into the child's account, the child becomes the owner of the funds.

There are, however, situations where we may find that the money spent by a child is a loss. For example, when:

- The child is the account owner, but is not authorised to operate it.
- The parents told the bank they were putting their own money into the child's account.
- The money was to be used for a specific purpose.

In addition, we can consider compensation for any stress and inconvenience the parents suffer from receiving inadequate or incorrect advice from the bank when the account was set up.

Case 1: Bank incorrectly allowed teenager to access account

The parents discussed opening an account for their 14-year-old son. They told the bank they wanted to limit the amount he could withdraw, and it was agreed the account rules would require them to authorise all withdrawals. However, the bank made a mistake in setting up the account, and the son was able to withdraw $3,000 without the parents' authority.

The parents complained. The bank did not think the son had suffered a loss because he had had the benefit of the funds he withdrew. Nonetheless, it offered the parents $250 for inconvenience – an offer they rejected. They accepted their son was partly responsible for withdrawing the money, but felt the bank should accept more responsibility for its role in what had happened.

When the parents complained to us, the bank reconsidered the case and increased its offer to $1,500 – half of the amount withdrawn. The parents accepted this offer, and the complaint was resolved.

Case 2: Mother misunderstood mandate

A mother opened an account for her son. She believed she *and* her son had to sign for withdrawals. The son withdrew $1,400, bought a car and wrote it off in an accident. The mother complained to the bank that it had allowed her son access to the account without her signature. The bank did not think it had done anything wrong, but as a goodwill gesture offered to give her the $600 she had put in the account. However, she also wanted the $800 her son had deposited, and complained to us.

We looked at the account mandate. It showed the son was able to withdraw funds on his own. The mother accepted the bank's offer of $600.

Case 3: Bank gave mother incorrect information

A mother opened an account for her teenage daughter in the daughter's name. She told the bank she would be depositing the money appearing in the account, and she wanted control over how the money was used. She also told the bank she did not want her former husband to have access to the funds. The bank set up the account mandate to require joint authorisation by the mother and the daughter.

Eighteen months later, the daughter changed the mandate so her father, rather than her mother, had to co-authorise withdrawals. When the mother found out, she asked the bank to reinstate the withdrawn funds, but the bank said her daughter, as the account holder, was entitled to change the mandate.

We considered whether the bank had given the mother the right advice when the account was opened. Given the mother's explanation of her requirements, we found that the bank should have pointed out that her daughter would have the right to change the account mandate. Had it done so, the mother would probably have set up the account differently.

However, we found the mother had not suffered a loss because her intention was that the daughter would use the money. But we did find that she had been inconvenienced. We suggested the bank make a payment to reflect this inconvenience. The mother did not accept this view and withdrew her complaint.

Case 4: Father unhappy with mother's withdrawal of funds

The parents, after separating, opened accounts in the names of their two children and deposited $12,000 in each child's account. The accounts were to be operated jointly by the parents.

Two months later, the mother transferred most of the money out of the accounts, and five years later she withdrew the balance and closed the accounts.

Two years after that, the father discovered what had happened. He complained to the bank, which accepted it had allowed the transfers and the closure of the accounts contrary to the account mandates. It offered $1,000 compensation for the inconvenience he had suffered as a result of losing control of how the children's money could be used.

The father did not accept the bank's offer, and wanted the bank to reinstate the accounts with the original $12,000 deposits plus interest. The bank was not prepared to do this.

He complained to us. With his consent, we contacted the mother, who said she had transferred the funds into term deposits at another bank in the children's names. We therefore found he had not suffered a loss as a result of the funds transfer.

The father remained unwilling to accept the bank's offer, and decided to pursue his complaint elsewhere.