

# Dealing with a deceased customer's bank accounts

**10 Feb 2014**

We sometimes receive complaints from relatives or associates of someone who has died, particularly in relation to disclosure of information about the deceased's bank accounts, or the operation of the accounts.

## What happens to a deceased customer's accounts?

Each bank has its own policy on how it deals with a deceased customer's bank accounts. It is important for the deceased's relatives, friends or lawyer to notify the bank when someone passes away, as the bank will not necessarily be aware of a customer's death.

A bank normally freezes a deceased customer's private accounts when notified of the death. A bank may require a copy of the death certificate before it can follow instructions.

If a deceased customer had a joint account, the account will usually be transferred into the remaining account holder's name. When a customer passes away, signing authorities and Power of Attorney authorities for their account will no longer be valid.

## Deceased estates

A bank is only able to take instructions regarding a deceased person's account from someone who is authorised to act on behalf of the deceased's estate. The legal process is usually to obtain probate or letters of administration from the High Court. This allows executors or administrators to deal with the deceased's property.

Once probate or letters of administration have been obtained, the executors or administrators should be able to set up a special account called "the Estate of [deceased's name]".

The bank will then transfer funds from the deceased customer's accounts to the estate account and close the deceased's personal accounts. The estate account is used to distribute funds such as money gifted in the will. Once distribution is complete the estate account is closed.

If the value of an estate is less than \$15,000, it may not be necessary to obtain probate or letters of administration if the bank is satisfied the person is dead and administration of their estate has not been applied for. We suggest you talk to your bank or seek independent legal advice for more information about estates.

## How to contact us

## Who can obtain information about and access to a deceased customer's bank accounts?

Banks still have a duty of confidence to their customer, even after their death. This means banks cannot disclose information about their customers to anyone other than parties who are legally entitled to it. In most cases a bank can only take instruction from the executors or administrators of the estate and is unable to release information to other parties, such as next of kin or estate beneficiaries.

## Who can make a complaint about a deceased customer's banking service provider?

We can generally only accept a complaint about a deceased customer's bank from the executor or administrator of a deceased customer's estate. Paragraph 2.1 of the Banking Ombudsman Scheme Terms of Reference requires the complaint to be made by the individual(s) or entity to receive (or not receive) the service that is the subject of the complaint.

### Definitions:

<i>Administrator:</i>	A person appointed by the court to handle the estate of a person who died intestate, whose will is invalid, or whose named executors are unwilling or unable to act.
<i>Beneficiary of the Estate:</i>	Someone who receives a specific gift or an amount of money from the deceased, as detailed in their will.
<i>Estate:</i>	All assets, including (but not limited to) money, shares, real estate, vehicles and personal possessions.
<i>Executor:</i>	A person or trust company named in the will to administer the estate of the deceased.
<i>Letters of Administration:</i>	A document granted by the High Court which appoints administrators of an estate when the person has died intestate or when the will is invalid.
<i>Intestate:</i>	When a person dies without a will.
<i>Insolvent Estate:</i>	When there is not enough money in the estate to cover the debts and expenses.
<i>Probate:</i>	A document granted by the High Court which acknowledges the executors of the will as administrators of the deceased's estate.
<i>Will:</i>	A legally enforceable document which specifies the desired distribution of a person's property upon their death.

### How to contact us

## Case note 1

Mr N was executor of his late brother's estate. He wanted to obtain information about his brother's financial affairs, including transactional information for his brother and brother's partner's joint account.

Mr N provided his brother's bank with the necessary information to show he was executor and entitled to his brother's information. However, the bank would not give him any information relating to the joint account. It explained the account did not form part of his late-brother's estate because it became his partner's sole account when he died. It told Mr N information about that account could only be disclosed with the partner's consent, and offered to get that for him.

Mr N was not satisfied with the bank's response. He needed the information because he was in dispute with his brother's partner who was unlikely to agree to the information being disclosed.

He maintained the bank should disclose the information to him and asked our office to investigate. We explained to Mr N that the bank's advice to him was correct and we could not require the bank to disclose the information he requested. We advised Mr N that a court has the power to require the release of information in certain circumstances.

Our Terms of Reference provide that we do not have the power to investigate a complaint more appropriately dealt with through another process. We were unable to further consider Mr N's complaint and suggested Mr N speak with a lawyer about obtaining a court order.

## Case note 2

Mr T wanted information from his deceased sister's bank about her accounts. He and his family also wanted an explanation from the bank about why it had allowed rent payments to continue from his sister's account following her death.

The bank was not willing to provide this information to Mr T because he had not been appointed to act on behalf of his sister's estate.

Mr T wrote to us on behalf of his family to see whether we could help them get this information from the bank.

We advised Mr T that we were not able to assist him because the administration of his sister's estate had not yet been fully resolved. To be able to help him, we would have needed a waiver of confidentiality from the administrator of the estate or someone appointed to act on behalf of the estate, such as a lawyer. The relationship between a bank and its customer is confidential. This duty of confidentiality also applies to estates of deceased persons.

Mr T was hopeful someone from the family would be appointed the administrator soon. We told Mr T that the administrator, when appointed, could contact us if the bank was not willing to release the information to him or her.

## How to contact us