

The complaint

Mr E and Mrs E complain that Nationwide Building Society (Nationwide) mishandled a Power of Attorney.

What happened

Mrs E gave Mr E and his brother Power of Attorney (POA) over her property and financial affairs in June 2019. The joint current account for Mr E and Mrs E was operated by Mr E. Mr E and his brother fell out. On 18 December 2019, Mrs E signed a Deed of Revocation (DOR) to remove Mr E's brother from the POA. This was sent to the Office of the Public Guardian (OPG). On 31 December 2019, Mr E became aware that his brother had made an appointment with Nationwide to register the original POA on the bank account. He visited the branch and told them the DOR had been sent to the OPG. On 9 January 2020, Nationwide wrote to Mr E and Mrs E to say that Mr E's brother's POA had been registered on the bank account. Mr E called Nationwide on 14 January 2020 and asked that the account was blocked. On 21 January 2020, the OPG confirmed that Mr E's brother had been removed from the POA, and Mr E was then the only name on it.

Mr E and Mrs E complained that Nationwide had handled the POA badly. He'd told them about the DOR – so they shouldn't have accepted his brother's registration of the POA. And when he called them on 14 January 2020, he was told that it would take 48 hours to block the account. And, when the POA dispute was resolved, Nationwide wouldn't remove the block.

Nationwide said they could only act on legal documents, rather than what Mr E and Mrs E said to them. So – they were correct in accepting the registration of Mr E's brother's POA. And, they couldn't act on Mr E and Mrs E's verbal instruction when they told them on 3 January 2020 and 14 January 2020 about the DOR – they needed to see the actual legal document (from the OPG). They had put a stop on the account after Mr E and Mrs E spoke to them on 14 January 2020 - and said they'd call him back within 48 hours to discuss things. The block on the account wasn't removed immediately because of the dispute between Mr E and his brother, and because they were aware that the OPG was investigating the POA. They needed to be certain everything was in order before lifting the block.

Mr E and Mrs E brought their complaint to us. Our investigator looked at what had happened. She said that Mr E and Mrs E were told by Nationwide that no action would be taken with the POA until the OPG had been consulted – when they'd visited the branch early in January 2020. Nationwide's notes say that in view of the dispute, no access to the bank account should be allowed. So – the versions of Nationwide and Mr E and Mrs E vary on this point. She felt that while there was notice that there was a DOR – Nationwide shouldn't have accepted registration of Mr E's brother's POA – and the account should've been blocked on 3 January 2020 – as indicated by the branch's notes. On the call on 14 January 2020, she could see there was uncertainty about what Mr E and Mrs E were told. Mr E and Mrs E thought they were told the block wouldn't be applied for 48 hours – Nationwide said the block was applied immediately, but that they would call Mr E and Mrs E back after 48 hours to discuss things. The call wasn't recorded by Nationwide. On the delay

in removing the block, she could see that Nationwide needed to ensure that everything was in order before lifting restrictions – so Nationwide acted fairly there. She said that Nationwide should pay compensation of £200 to Mr E and Mrs E for allowing Mr E's brother to register the POA and for not communicating effectively that a block had been placed on the account.

Nationwide disagreed and asked that the complaint be looked at by an ombudsman.

I reached a provisional decision where I said:

I take a different view to our investigator. I am upholding this complaint, but for different reasons – and with a different level of compensation.

There are four key issues here:

- Whether Nationwide should have allowed Mr E's brother to register his POA in January 2020, when Mr E and Mrs E had advised them that a DOR had been sent to the OPG.
- Whether Nationwide blocked the bank account at the right stage.
- Whether Nationwide's communications about the block were clear.
- Whether Nationwide should've lifted the block earlier.

Registration of the POA by Mr E's brother

Mr E's brother visited the branch in early January 2020 and registered the POA – which was the original POA dated June 2019 – showing him as an attorney, along with Mr E. But – before that, on 18 December 2020, Mrs E had sent to the OPG a DOR removing Mr E's brother from the POA. The OPG didn't confirm that Mr E's brother was removed until 21 January 2020. Nationwide argue that they could only act on legal documents, not on what Mr E and Mrs E told them – and I agree with them on this point. For example, it was possible that the OPG wouldn't accept the DOR (for whatever reason) – and Nationwide couldn't be expected to second guess what the OPG might or might not say. So – they were correct in accepting the registration of the POA by Mr E's brother. But, in any event, I note there was no damage done – because there's no evidence that Mr E's brother acted inappropriately by, for example, removing funds from the account. So – Nationwide acted fairly here. This is the most important aspect of this complaint.

Blocking of the bank account

Mr E and Mrs E visited the branch of Nationwide on 3 January 2020 and told the branch manager of the dispute over the POA and the impending DOR. The notes on the account by the branch manager say “...been informed by family a DOR has been applied for, don't give any access to acnt...” But – no block was place on the bank account. Given that Nationwide were aware of the dispute, they should've blocked the bank account then, until matters were sorted out. In the event, the account wasn't blocked until 14 January 2020 – when Mr E and Mrs E called Nationwide after they'd learned that the POA had been registered. So – for the period between 3 January 2020 and 15 January 2020, there was a risk that something might have happened which could've caused problems. In the event, I've seen no evidence that any or losses were incurred. But clearly, it caused Mr E and Mrs E some distress and concern. Nationwide should've acted when they were advised of the dispute - and I think they should've blocked the account earlier than they did – on 3 January 2020.

Nationwide's communications about the block

There are differing versions of events here. Nationwide blocked the account on 15 January 2020 when Mr E and Mrs E called them – and told them they would call them in 48 hours. Mr E and Mrs E say Nationwide said the block wouldn't be placed for 48 hours. There isn't a recording of the call, so we can't be certain of what was said. But – the block was certainly put in place. But I'm inclined to accept Mr E and Mrs E's version of what was said here.

Lifting of the block

Mr E and Mrs E wanted the block to be lifted as soon as the OPG said it had accepted the DOR. Nationwide were on notice that the OPG were still investigating the POA. So – in those circumstances, Nationwide were correct in not lifting the block until they were satisfied everything was in order. So – they acted correctly here.

So – my conclusions are that Nationwide:

- Acted correctly in allowing Mr E's brother to register the POA.
- Should've blocked the bank account earlier than they did – on 3 January 2020. This caused Mr E and Mrs E some distress, but I also note that no losses occurred as a result.
- Communications about the blocking of the account on 14 January 2020 weren't precise. This caused some concern to Mr E and Mrs E.
- Were correct in not lifting the block immediately while the dispute was being resolved.

It's fair to say that distress in circumstances like this are heightened, and I can see how this affected Mr E and Mrs E. So, I agree that some compensation should be awarded. But, as my findings are that Nationwide were correct in allowing the registration of the POA – I think a lower amount of compensation than that recommended by our investigator is appropriate - and I think that £100 is right – largely for the delay in blocking the account.

Responses to the provisional decision:

Mr E and Mrs E disagreed and said (in summary):

- Nationwide were negligent in handling the matter and gave poor service.
- Nationwide shouldn't have registered the POA in favour of Mr E's brother as they were on verbal notice of the DOR.
- They were told by the branch manager that Nationwide's POA department always check with the OPG before registering a POA on the bank account – but this was wrong, as no such check was made.
- The branch manager should've put the Nationwide POA on notice that a DOR existed – if this had been done, the POA wouldn't have been registered.
- Nationwide can't hide behind their argument that a legal document overrides a verbal instruction.

Nationwide also disagreed and said (in summary):

- They would always register a valid POA on a bank account. If the correct legal documents were presented, as they were in this case. They didn't check with the

OPG about a possible DOR, but even if they had done so, they would still have been required to accept and register the POA they were presented with.

- A block was placed on the account on 14 January 2020, when Mr E called them – not after 48 hours, which was the time advised for a call back to Mr E.
- They don't feel that compensation should be paid in this case.

So – I now need to make 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.

I've reviewed the further arguments put forward by both Mr E and Mrs E, and by Nationwide.

On the registration of the POA in the name of Mr E's brother, I remain of the view that Nationwide acted correctly – that a correct legal document was presented, and this overrides a verbal advice of a dispute or the existence of a DOR. As I said in my provisional decision, the DOR could've been dismissed (for whatever reason); and a verbal advice is just that – it can't take precedence over a legal document.

Mr E and Mrs E say that Nationwide told Mr E that their POA team would check with the OPG. Unfortunately, there's no record of exactly what was said in that conversation – but Nationwide have said that this wasn't part of their process, and in any case, even if they had done - a DOR which was in process still wouldn't outweigh a valid and legal POA.

On Nationwide's point about the blocking of the bank account – this is largely irrelevant as I say the account should've been blocked when they were put on notice of the dispute on 3 January 2020. This would then have protected all parties from any problems on the bank account - until the dispute over the POA and DOR was resolved.

But – as I said in my provisional decision, I've seen no evidence of any inappropriate transactions on the bank account during the period in question – so there are no losses to be considered.

And so, on balance and in all the circumstances of this case, I remain with my provisional decision. Nationwide should have stopped the bank account at an earlier stage. But the registration of the POA on the bank account by them was correct.

Putting things right

I am upholding this complaint, and Nationwide must pay compensation of £100 to Mr E and Mrs E for distress and inconvenience.

My final decision

I uphold this complaint. Nationwide Building Society must pay £100 to Mr E and Mrs E for

distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E and Mrs E to accept or reject my decision before 20 July 2021.

Martin Lord
Ombudsman