

### **The complaint**

Ms H complains of poor customer service from National Savings and Investments.

Ms H is represented by her niece in bringing this complaint. But for ease of reading, I'll refer to any submission and comments she has made as being made by Ms H herself.

### **What happened**

Ms H attempted to open an account with National Savings and Investments (NS&I) for £50,000 via a cheque. Her niece, who was acting in her capacity as attorney under a Lasting Power of Attorney (LPOA) said she included a certified copy of the LPOA with the application and cheque.

NS&I wrote to Ms H on 18 September 2020. They said that they couldn't accept the LPOA document as it was a photocopy. NS&I said that they would return the photocopy separately and that she would need to send them a certified copy of the LPOA.

Ms H noticed that NS&I had processed the cheque and the funds had been debited from her bank account. The attorney rang NS&I to inform them that they hadn't sent the LPOA document back yet. Ms H says that her attorney was promised that NS&I would send back the LPOA document to prove whether it was a photocopy or a certified copy.

The attorney says she paid for another certified copy and asked her solicitor to write NS&I a letter confirming the new LPOA was a certified copy. NS&I then sent her solicitor a letter dated 25 November 2020, to say the premium bonds were open and they sent Ms H a letter showing a summary of her premium bonds.

Ms H complained to NS&I via her attorney. She also complained how NS&I were handling the complaint as they were taking longer than expected to respond to her complaint. NS&I did not uphold the complaint. They said that she had sent a photocopy of the certified copy of the LPOA and as a photocopy had no monetary value then the photocopied LPOA document was destroyed. NS&I apologised for previously giving her incorrect information on this matter.

NS&I also said that Ms H had not missed out on any of the premium bond draws, as she was eligible for the November draw, having applied for the premium bonds on 14 September 2020. NS&I explained that due to the pandemic it was taking longer to answer calls and handle complaints.

Ms H brought her complaint to our service. She said to resolve the complaint she wanted NS&I to pay her interest for the funds not being in the prize draw until November, cover the costs of her getting a new certified copy of the LPOA and solicitor costs which she estimated to be approximately £240. She also wanted NS&I to compensate her attorney for the time she has spent trying to resolve the situation, which she estimates to be approximately £240. In total she thinks £500 compensation would be fair.

Our investigator did not uphold Ms H's complaint. She said that when NS&I receive

documentation, they complete a checklist. The checklist showed that the LPOA document was a photocopy of a certified LPOA document. Our investigator said that based on this, Ms H was always going to have to pay to get another certified copy of the LPOA if she wanted to invest through NS&I. So, she didn't think it would be fair for her to ask NS&I to cover the cost of having the document reissued.

Our investigator also explained to Ms H that we can only look at complaints about regulated financial activities and complaint handling isn't one of the regulated activities, so she was unable to address her concerns relating to complaint handling. Our investigator also said that our service doesn't award compensation to people acting in their legal capacity as representatives or attorneys – it would be Ms H only who would be eligible for any compensation – but she didn't think NS&I should pay any compensation in this instance.

Ms H asked for an Ombudsman to review her complaint. She said it was unacceptable for NS&I not to have returned the LPOA document, but instead they destroyed it. She said in all probability the copy that we received from the NS&I is a copy of the second certified copy that was sent. Ms H also requested that the phone calls were listened to that were made with NS&I as she was concerned they could be covering things up. Before the complaint reached an Ombudsman decision, NS&I offered Ms H £50 for giving her incorrect information in the letter they sent her. Ms H wanted the complaint to go to an Ombudsman.

As my findings differed in some respects from our investigator's, I issued a provisional decision to give both parties the opportunity to consider things further. This is set out below:

*"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.*

*Ms H has made a number of points to both NS&I and this service and I've considered and read everything she's said and sent us. But, in line with this service's role as a quick and informal body I'll be focusing on the crux of her complaint in deciding what's fair and reasonable here.*

*When it comes to complaints where it's one word against another, I have to consider the evidence available to me. I then have to weigh the evidence against the balance of probabilities, that is, what's more likely to have happened in the circumstances. In all honesty, I can't say for certain if the copy of the LPOA that Ms H sent NS&I was a certified copy or a photocopy of a certified copy of a LPOA, as the physical document sent has been destroyed. So I'm unable to rely on this document when making my decision here.*

*I asked NS&I to send me the call recordings that they have from Ms H/her attorney. From the recordings I've listened to, there is no evidence I've heard of them trying to cover anything up. All of the call handlers are consistent that NS&I records show that a photocopy of a certified copy of the LPOA was received by them.*

*During a call on 28 September, Ms H's attorney explains to the call handler that she had paid for 10 certified copies of the LPOA document. She says she is "pretty sure" that she would have sent one of those copies and she says the certified copies she's still got show that a solicitor has certified each page. She says that she "can't say for sure (if it's a certified copy) until (she) receives that copy back".*

*So there is a level of uncertainty that the attorney has on the call, whether one of the certified copies she had, has been sent. But I can understand why she wanted the copy back to definitively prove one way or another whether the copy was certified or not. I've heard on another call she had with NS&I, that she agrees with the call handler that NS&I wouldn't be able to accept a photocopy of the certified document and is adamant on this call that she*

sent an original copy.

*I have looked at the copy of the LPOA document which was first sent by Ms H. This was scanned onto NS&I's system. So while the physical copy had been destroyed, this was after NS&I had scanned it onto their system. It isn't possible for me to say for certain whether this was a certified copy or not. Even if there are indications that this could be a photocopy, I wouldn't be able to tell from this document, as NS&I's scanning equipment may have caused lines/imperfections on the document. But I can see this document was certified in 2018, so this may have contributed to any marks on the scan due to how long ago it had been certified.*

*Next, I've looked at how NS&I record documents which are sent to them. I can see that NS&I complete a checklist with each "cherished" document sent to them such as a LPOA. For the first copy of the LPOA, sent with the application, the checklist clearly shows under the photocopy of a certified copy, that this section is ticked. Although I have considered whether human error could have resulted in a photocopy of a certified copy being ticked instead of certified copy, I'm persuaded this is unlikely and on the balance of probabilities a photocopy was sent, and I'll explain why.*

*As our investigator has explained, NS&I have said that the document was physically examined by staff who are trained to spot the difference between a photocopy and a certified copy. So I am persuaded, that as the checklist is clear that a photocopy of the document had been sent, that on the balance of probabilities, a photocopied version of the document was sent. I can see when the solicitor sent a certified copy of the LPOA in November 2020, that the checklist which was completed shows that this is a certified copy, and not a photocopy. So it's likely that both checklists have been completed accurately and I have no evidence that a human error has been made. NS&I provided us with both scanned copies of the 2018 and 2020 LPOA documents, so they did not just send us the same copy as the second LPOA document as Ms H thought they may have done.*

*NS&I have said that their process around receiving photocopied documents is to destroy the physical document as they would have no monetary value. I must explain to Ms H that it is outside of our remit to tell a business how to run their processes. So even if Ms H believes it is unfair that they have destroyed the document originally sent, it is not their process to send what they believe to be a photocopy back, even if they told her they would return the document. But this information is different to what Ms H was originally told in NS&I's letter dated 18 September 2020.*

*So I am persuaded here that NS&I set an expectation for Ms H that the LPOA would be sent back to her and gave her incorrect information about their process. While it wouldn't change the fact that Ms H believes that a certified copy had been sent to NS&I, it wouldn't have resulted Ms H originally believing that the copy had been lost in the post when she didn't receive the LPOA document back from NS&I. I'm glad to see that NS&I have realised that giving the incorrect information would have had an impact on Ms H. They have offered her £50 compensation for poor customer service. I'm persuaded this offer is fair as it shows NS&I have admitted that they have given poor customer service in relation to telling Ms H they would send the copy back, when their process is to destroy photocopied documents.*

*I've considered the amount of compensation that Ms H wants to resolve the complaint. I will clarify our approach to complaints brought to our service by an attorney/representative. In this case, Ms H gave the LPOA the authority to act on her behalf in relation to all her property and affairs with no restrictions. As our investigator has explained, we couldn't consider any inconvenience to an attorney/representative and this is because the attorney wasn't the NS&I customer, who would be the eligible complainant. However, I would like to explain we can only tell a business to pay compensation for trouble and upset experienced*

*by their customer – not by a third party. So, although an attorney can act on behalf of Ms H, we couldn't award compensation to an attorney who has brought a complaint on her behalf. So I can't award for time spent by the attorney here.*

*I've then considered what Ms H has said about the cost of getting a new certified copy of the LPOA document and this has cost £240. But I'm not persuaded that she needed to pay for this. As mentioned on the telephone call, there had been 10 copies of the certified LPOA document. And her attorney said she had looked in her envelope and these have been certified by the solicitor on each page. So Ms H could have sent one of these copies if she believed they weren't photocopies and were certified copies instead. She also confirmed in her letter to NS&I on 30 September 2020 that she had the original copy of the certified LPOA. So again, this could have been sent to NS&I. I know that Ms H didn't trust NS&I with the original document, however, I can't say that NS&I should be responsible to pay for a new copy if Ms H did not trust them, as they had made an alternative option available apart from paying for a new certified copy, which wouldn't have cost her any more money.*

*I'm also persuaded that a solicitor did not need to certify the document, or to send a letter to NS&I. As confirmed by NS&I's letter on 18 September 2020, it states that the certification must be signed personally by either the donor (who must still have mental capacity), a notary public, or a solicitor. So I'm not persuaded that NS&I should be responsible for any extra costs that Ms H has had from the solicitor sending a letter to NS&I and providing a new certified copy of the LPOA, when a copy could have been sent without a solicitor sending the documents.*

*I've thought about what Ms H has said about how NS&I have handled her complaint. But, as our investigator has explained, we can only look at complaints about regulated financial activities and complaint handling isn't one of the regulated activities, so I'm unable to address Ms H's concerns relating to this.*

*I've then thought about what Ms H has said about her losing interest as the premium bond application was sent in September and the cheque was cashed in September, but the premium bonds weren't entered until the November draw. I've looked at the customer agreement for the premium bonds. Here, it gives an example of when a customer is eligible for their first draw. It says "you'll need to hold them for a whole month before they're eligible for the prize draw. For example, if you buy Premium Bonds any time in November, they'll be in the draw in January." So I'm not persuaded that Ms H had lost out by the delay with the LPOA document and I'll explain why.*

*The cheque was paid in the middle of September. I know that Ms H was originally concerned that NS&I had lost the cheque, but the customer agreement shows that "cheque deposits will clear no later than the seventh banking day after being received." So I'm persuaded that NS&I hadn't done anything wrong by cashing the cheque shortly after it was received, in line with their customer agreement, even if NS&I believed the correct documents hadn't been received yet.*

*I've seen from NS&I's systems that from a system entry of 14 September 2020, it says "issue date 14 September 2020" followed by "eligibility start date 1 November 2020". So I'm satisfied that Ms H was in November's prize draw, which was the first draw she was eligible to be part of, based on the customer agreement example given above, even if the acceptable LPOA documents were received after 1 November 2020.*

*In summary, I agree there were service failings. However, I don't consider these service failings are sufficient to enable me to conclude that NS&I should pay higher compensation. I agree that £50 is a fair and reasonable amount of compensation to reflect the service failings identified by NS&I."*

I invited both parties to let me have any further submissions before I reached a final decision. NS&I did not respond to the provisional decision. Ms H did not accept the provisional decision and made a number of points.

In summary, Ms H said that the crux of the complaint shouldn't be overlooked – NS&I's poor financial management practices in handling a new customer's application, which resulted in the loss of a customer's legal document and the temporary loss of £50,000 within its system, without any reference number being provided to the customer, therefore it was unknown if the account was opened or if the money was safe.

Ms H said she did not send another copy from her pack of certified LPOA documents as NS&I didn't accept the first one sent. She said that in order to bring about the quickest resolution to finding out where her money was being held, it was reasonable to ask her solicitor to send another certified copy directly, so that its validity could in no way be questioned. She said this strategy worked and NS&I responded quicker. Ms H said she had to rely on the solicitor for an update as NS&I responded to the solicitor rather than her.

Ms H said on balance, the fact that the information on returning the certified copy was both in a letter and then repeated after an operator spoke to the back office would more likely indicate that there was either no such policy in place at the time to destroy documents or the system in place including how information is stored and communicated, was not understood or followed by NS&I's own employees here.

### **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 considered what Ms H has said regarding the poor experience she had when opening the account and the temporary loss of the £50,000 cheque. The application was dated on 10 September 2020 and NS&I wrote to Ms H on 18 September 2020. The letter did include a reference number. As I said in my provisional decision "*the customer agreement shows that "cheque deposits will clear no later than the seventh banking day after being received."*" So *I'm persuaded that NS&I hadn't done anything wrong by cashing the cheque shortly after it was received, in line with their customer agreement, even if NS&I believed the correct documents hadn't been received yet.*" So I'm not persuaded that NS&I did anything wrong on this point as the cheque hadn't been temporarily lost.

I appreciate the reasons why Ms H didn't send another copy from the pack of certified copies. But here I was pointing out that there were alternatives which could have been done without incurring an extra cost to herself. So although it may have resulted in a quicker outcome, it was her decision to pay for a solicitor to write NS&I a letter and send a new certified copy of the LPOA and so I can't hold NS&I responsible for the extra costs she incurred here. I addressed this in my provisional decision when I said the following:

*Ms H "also confirmed in her letter to NS&I on 30 September 2020, that she had the original copy of the certified LPOA. So again, this could have been sent to NS&I. I know that Ms H didn't trust NS&I with the original document, however, I can't say that NS&I should be responsible to pay for a new copy if Ms H did not trust them, as they had made an alternative option available apart from paying for a new certified copy, which wouldn't have cost her any more money.*

*I'm also persuaded that a solicitor did not need to certify the document, or to send a letter to NS&I. As confirmed by NS&I's letter on 18 September 2020, it states that the certification*

*must be signed personally by either the donor (who must still have mental capacity), a notary public, or a solicitor. So I'm not persuaded that NS&I should be responsible for any extra costs that Ms H has had from the solicitor sending a letter to NS&I and providing a new certified copy of the LPOA, when a copy could have been sent without a solicitor sending the documents."*

I've considered what Ms H has said about needing to rely on her solicitor for an update as NS&I had wrote to her solicitor to confirm the account was open. But I can see that NS&I also wrote to Ms H's attorney on the same day to confirm the account was open. So I'm not persuaded that she wouldn't have known the account was open if her solicitor didn't update her.

In response to Ms H's comments about NS&I's systems in place, including how information is stored and communicated, was not understood or followed by NS&I's own employees, I'm satisfied that the service failings were because the staff did not follow the procedure here. I haven't been able to listen to the conversation between the call handler who told Ms H that the document would be returned to her and the back office staff. So I can't say what the back office staff were asked (whether the call handler explained that NS&I believed it was a photocopy sent or had a general conversation about returning documents), but regardless, Ms H was told incorrect information here. I addressed this in my provisional decision when I said the following:

*"So I am persuaded here that NS&I set an expectation for Ms H that the LPOA would be sent back to her and gave her incorrect information about their process. While it wouldn't change the fact that Ms H believes that a certified copy had been sent to NS&I, it wouldn't have resulted (in) Ms H originally believing that the copy had been lost in the post when she didn't receive the LPOA document back from NS&I. I'm glad to see that NS&I have realised that giving the incorrect information would have had an impact on Ms H. They have offered her £50 compensation for poor customer service. I'm persuaded this offer is fair as it shows NS&I have admitted that they have given poor customer service in relation to telling Ms H they would send the copy back when their process is to destroy photocopied documents."*

In summary, Ms H's response hasn't changed my view and my final decision and reasoning remains the same as in my provisional decision. I know Ms H will be disappointed with the decision, but I hope she understands my reasons.

### **My final decision**

National Savings and Investments have already made an offer to pay £50 to settle the complaint and I think this offer is fair in all the circumstances.

So my decision is that National Savings and Investments should pay Ms H £50.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms H to accept or reject my decision before 26 January 2022.

Gregory Sloanes  
**Ombudsman**