

The complaint

The estate of Mr B complain that National Savings and Investments (NSI) asked for grant of probate.

What happened

Mr B had premium savings bonds totalling £50,000 with NSI. Sadly, he died on 17 December 2020. Grant of Probate (GOP) was obtained on 9 June 2022. The NSI investment was paid to the executors on 23 July 2022.

Mr B's wife, Mrs B, also had premium savings bonds with NSI of £50,000. She sadly died on 1 June 2021. GOP was obtained on 13 December 2021. The PSB investment was paid to the executors on 9 February 2022.

The estate of Mr B is represented by Mrs B – who made several calls to NSI and corresponded with NSI. The estate complains that they were given mixed messages by NSI as to the need for a grant of probate. They say that one member of staff said it wasn't needed, and then another said it was. They say this contradicted what they were told by HRMC probate office. They said that other banks and building societies didn't need a GOP and paid Mr B's money without one. They say this caused a delay to the repayment of the funds and a lot of distress and confusion. This was a difficult time for the executors – as both parents passed away within six months of each other.

NSI said they were bound by the rules of probate, and these apply to all savings and investment firms. These say that where the value of savings exceeds £5,000, they reserve the right to request a grant of probate. In this case, the value exceeded £5,000 and so a GOP was needed.

The estate of Mr B brought their complaint to us. Our investigator said NSI acted reasonably. A GOP was needed under the rules - and NSI had followed their processes for repaying investments. He referred to a call between NSI and the estate of Mr B in February 2022 – in which the estate say they were told a GOP wasn't needed. A recording of the call isn't available but he felt that on the balance of probability, the estate was told that - as that would account for the delay in repaying the funds so long after Mr B's death. It was also unfortunate that the letter sent by NSI on 9 July 2022 quoted the wrong balance for Mr B's investment – it quoted £100,000. But because the correct funds were paid out in any case, he didn't consider the estate lost out and therefore didn't recommend any compensation.

The estate of Mr B didn't agree and asked that an ombudsmen look at their complaint. They said that because NSI said they 'reserve the right to request a grant of probate', then discretion should've been exercised and a GOP not asked for. They said a joint probate was granted by HMRC and this should've been sufficient to release the savings of both Mr B and Mrs B. They also said there was an error on NSI's letter dated 9 July 2022 – quoting the wrong balance of Mr B's savings. Therefore, the estate's complaint has come to me to look at.

I reached a provisional decision which said:

I looked at NSI's operating procedures covering the release of funds on the death of an account holder. These say that where savings exceed £5,000, NSI may ask to see a GOP. And so in this case, I can't say that NSI were wrong to do so.

It is the case that NSI, and other firms, might exercise discretion and waive the need to see a GOP – and that's down to the individual firms involved. The estate of Mr B has said that other banks/building societies did that. I can't comment on those decisions, or what the value of savings was in those firms. But in the case of NSI, they took the decision to ask for a GOP – which they were entitled to do.

The estate has said that HMRC have said that a 'joint GOP' could be produced and that should've been accepted by NSI – but our service can only look at how NSI have acted here, and not the actions and advice given by another party.

The estate of Mr B say they were told that a GOP wasn't needed - on a call in February 2022. We asked NSI for the calls made by Mrs B. I listened to the calls made on 28 January 2022, 2 February 2022, 8 February 2022, 24 June 2022, and 6 July 2022. Mrs B has said there was a call on 15 February 2022 – but it appears there wasn't one on that date.

It is the call on 2 February 2022 which is important in the context of this complaint. Mrs B explained that she had been given a 'joint GOP' by HMRC – and been told by HMRC that this would be accepted by NSI for her to gain access to her late father's PSB funds. She explained why she wanted to do it that way – as his estate had passed to his wife (who then sadly died). Therefore, her logic was that as the late Mr B's funds passed to his wife, then the GOP for the late Mrs B would suffice. And the estate could access the late Mr B's funds that way. The form mentioned was 'IHT217'.

NSI's call handler then took advice from NSI's bereavement department – I heard the internal advice given to the call handler. This was that – if the estate could get a letter from HMRC to say that the late Mr B's estate were included in the late Mrs B's GOP – then NSI would accept that. NSI's call handler wrote that down and read out the advice to Mrs B. The call handler concluded *"in that case – your mother's probate will be enough" (to get the repayment of the late Mr B's PSBs)*. I heard Mrs B repeat what she'd been told and she wrote it down.

We asked for and looked at the customer notes to see what was recorded. These confirm what Mrs B was told on the call on 2 February 2022. But – the notes then (later) say that on 8 February 2022, Mrs B called again to say that she couldn't get any such letter from HMRC – and so a GOP for the late Mr B's estate would be needed.

In NSI's operating processes - there isn't any mention of a 'joint GOP' or 'IHT217'. So - NSI were acting in line with their operating rules to ask for a GOP. But – the fact is that Mrs B was wrongly advised on the call on 2 February 2022.

I can see that NSI made an error in the letter dated 9 July 2022 - which said that Mr B's investment was £100,000. However, I don't think it's reasonable to say that this caused any particular problem – and the estate didn't raise this in their original complaint. I'm not therefore persuaded that this error was the cause of any issues – especially as the funds of £50,000 were repaid shortly afterwards, on 23 July 2022.

But - based on what Mrs B was told on the call on 2 February 2022, I can see why she was confused and frustrated. Mrs B was wrongly informed that a letter from HMRC would mean she didn't have to get a GOP for her late father. This was an error by NSI – which, to be fair they later corrected.

Mrs B was particularly upset – as she was having to deal with the loss of both her parents within a short time of each other, and with the winding up of their affairs. Therefore - I think it's only reasonable that NSI pay compensation of £200 - for the distress and inconvenience caused.

Responses to the provisional decision:

NSI agreed. The estate of Mr B didn't respond.

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.

As NSI agreed; and the estate of Mr B didn't respond, my final decision is unchanged from the provisional decision.

My final decision

I uphold this complaint. National Savings and Investments must:

- Pay compensation of £200 for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mr B to accept or reject my decision before 26 July 2023.

Martin Lord
Ombudsman