

## **The complaint**

Mrs M, who is represented by her husband, complains she couldn't access her funds for a considerable period following National Savings and Investments' implementation of strong customer authentication.

## **What happened**

Mrs M has held a cash ISA with National Savings and Investments for many years. Her husband has told us that she's hearing impaired and doesn't own a mobile phone.

Mrs M's husband has told us that Mrs M started having problems accessing her cash ISA in August 2022 after National Savings and Investments had made changes to its processes in order to implement strong customer authentication. Mrs M complained.

National Savings and Investments looked into Mrs M's complaint and sent several (inconsistent) responses. Mrs M was unhappy with National Savings and Investments and so complained to us.

One of our investigators looked into Mrs M's complaint and said that although it wasn't unreasonable of National Savings and Investments to make changes to its processes, its responses had been inconsistent. For example, at one stage National Savings and Investments told Mrs M that she needed a mobile phone in order to receive one-time passcodes so she could log onto her account when, in fact, one-time passcodes could also be sent to a landline. Our investigator didn't think National Savings and Investments had done enough for Mrs M between August 2022 and October 2022, but from October 2022 onwards our investigator thought that it had offered Mrs M alternative ways of authenticating and had also offered to re-open her ISA and backdate the tax-free status of her account – she'd moved her funds out of the ISA. And they awarded an additional £100 on top of the £205 National Savings and Investments had already paid.

National Savings and Investments accepted our investigator's recommendations. Mrs M didn't. She said she hadn't moved her funds back as she'd only been given 20 days to consider this and that the compensation didn't put things right given all the worry she'd been through. Mrs M's husband told us that National Savings and Investments should, amongst other things, acknowledge that it had had an IT meltdown and that its executive team ought to respond saying what action they were taking to put matters right. Mrs M's complaint was, in the circumstances, referred to an ombudsman for a decision. Her complaint was, as a result, passed to me.

## **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 can see that Mrs M's husband feels very passionately that something has gone badly wrong at National Savings and Investments and that it needs to acknowledge this publicly. I'm satisfied that our investigator has already explained our role – to look at complaints

individually and to look at complaints from eligible consumers – so I’m not going to repeat what they’ve said here. I’m looking solely at Mrs M’s complaint. Before doing so, it’s worth explaining a bit about strong customer authentication.

## **background**

NS&I has told us that it made changes in July 2022 to the way its customers log into their online account. NS&I has told us that its customers now need to enter a six-digit one-time passcode – which are sent by text message or an automated call – when they first log into their account and each time they log in from a different browser. NS&I has told us that it made these changes in order to implement new regulations that came into effect in September 2019 – namely the Payment Services Regulations 2017 (“PSRs”). These regulations required payment service providers (“PSPs”) to apply strong customer authentication in certain circumstances. Those circumstances are set out in

Article 100 of the regulations which says:

“A payment service provider must apply strong customer authentication where a payment service user—

- (a) accesses its payment account online, whether directly or through an account information service provider;
- (b) initiates an electronic payment transaction; or
- (c) carries out any action through a remote channel which may imply a risk of payment fraud or other abuses.”

The FCA gave PSPs until March 2020 to implement strong customer authentication for online banking and gave the e-commerce industry until March 2022 to implement strong customer authentication for online payments. The e-commerce industry includes card issuers, payment firms and online retailers. There was, of course, nothing to stop firms bringing in strong customer authentication sooner than that, if they wanted to do so.

The Payment Services Regulations – which implemented an EU Directive from 2015 commonly known as PSD2 – define “strong customer authentication” as:

“authentication based on the use of two or more elements that are independent, in that the breach of one element does not compromise the reliability of any other element, and designed in such a way as to protect the confidentiality of the authentication data, with the elements falling into two or more of the following categories—

- (a) something known only by the payment service user (“knowledge”);
- (b) something held only by the payment service user (“possession”);
- (c) something inherent to the payment service user (“inherence”);”

In short, strong customer authentication involves, amongst other things, checking that the person accessing a payment account online or initiating an electronic payment is permitted to do so. PSPs have to “authenticate” the person in question using factors based on “knowledge”, “inherence” or “possession” and must use at least two independent factors when doing so. They can’t, for example, check using only “knowledge” based factors, but they can check using one or more “knowledge” based factors and one or more “possession” based factors. The changes that NS&I made to its processes – and the way they were

implemented – are at the heart of this complaint.

### **NS&I's approach to implementing strong customer authentication**

NS&I has said that it made changes to its processes in order to implement strong customer authentication – and that the changes were important measures designed to combat fraud. In addition, NS&I has said that it's provided several alternative ways of authenticating, including sending one-time passcodes to landlines – an option that would have worked for Mrs M from October 2022 onwards.

### **What has the FCA said about strong customer authentication and its expectations?**

The Financial Conduct Authority (the "FCA") has published several papers about strong customer authentication and its expectations, and it has written to firms about this too. In a paper published in June 2019 – "Payment Services and Electronic Money – Our Approach" – the FCA described its approach to the PSRs and payment services and e-money related rules in its Handbook. The FCA said the paper "provides guidance for a practical understanding of the requirements, our regulatory approach and how businesses will experience regulatory supervision". The FCA added that its "guidance is intended to illustrate ways (but not the only ways) in which a person can comply with the relevant regulations and rules".

In paragraph 20.21 of its paper the FCA said:

"We encourage firms to consider the impact of strong customer authentication solutions on different groups of customers, in particular those with protected characteristics, as part of the design process. Additionally, it may be necessary for a PSP [Payment Service Provider] to provide different methods of authentication, to comply with their obligation to apply strong customer authentication in line with regulation 100 of the PSRs 2017. For example, not all payment service users will possess a mobile phone or smart phone and payments may be made in areas without mobile phone reception. PSPs must provide a viable means to strongly authenticate customers in these situations."

The FCA has, in my opinion, made it clear in its paper and elsewhere that businesses shouldn't rely on mobile phones alone to authenticate their customers and should provide viable alternatives for different groups of customers. The FCA has, in my opinion, also made it clear in this paper and elsewhere that this includes people in areas with limited mobile reception. The FCA has talked, for example, about managing the potentially negative impact of strong customer authentication on different groups of customers "particularly the vulnerable, the less digitally engaged or located in areas with limited digital access". And the FCA has also talked about the need for firms to develop strong customer authentication "solutions that work for all groups of consumers" and has said that this means they "may need to provide several different authentication methods for your customers".

The FCA's guidance is, in my view, aimed principally at current accounts and savings accounts that customers can reasonably expect to be able to access easily and quickly. In this case I'm dealing with an ISA where that isn't necessarily the case. That's something – along with the regulations and guidance, amongst other things – that I have to take into account when deciding what's fair and reasonable in the circumstances of this complaint.

### **Should NS&I have done more for Mrs M when she originally complained?**

I don't think anyone is disputing that National Savings and Investments could have done more for Mrs M when she complained in August 2022. And that its responses between

August 2022 and October 2022 were inconsistent. In the circumstances, I can understand that Mrs M was having second thoughts about leaving her substantial investment with National Savings and Investments. I can, therefore, also understand why she moved her money. I do, however, agree with our investigator that National Savings and Investments offered to re-open her account and backdate it once viable alternatives were in place. More importantly, I think that offer – including a period within which to accept it – was reasonable. Mrs M decided not to take up the offer – which is her right – but I agree it means she hasn't mitigated losses she's now claiming.

I also agree that National Savings and Investments' responses – particularly about Mrs M needing a mobile phone when it knew she didn't own one due to disability – were poor. But I agree the compensation our investigator has recommended is a fair outcome having taken the impact on Mrs M into account.

### **Putting things right**

Given what I've just said, I'm going to require National Savings and Investments to pay an additional £100 to Mrs M in compensation on top of the £205 it has already paid.

### **My final decision**

My final decision is that I'm upholding this complaint in part and requiring National Savings and Investments to pay an additional £100 to Mrs M in compensation on top of the £205 it has already paid. This additional payment is in full and final settlement of her complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 13 September 2023.

Nicolas Atkinson  
**Ombudsman**