

## **The complaint**

Mr C complains about the actions of Nationwide Building Society concerning an account for a trust of which he was a trustee.

## **What happened**

Mr C and his daughter, Ms B, were trustees of a trust. In 2017 they opened two savings accounts with Nationwide. Mr C says they stressed to Nationwide that the money was from Mr C's late wife's estate, and would form part of a will trust, later to be converted into a discretionary trust.

Mr C says he only discovered that the accounts were ordinary joint accounts in 2023, when he received a personal tax demand. He then had to move the money elsewhere and had to obtain a letter from Nationwide setting out the interest paid in each tax year so that he could sort out the situation with HM Revenue and Customs.

Mr C says that following the death of Ms B, the solicitor dealing with her estate claimed half the money in the accounts. He says he arranged for his solicitor to confirm that the money was part of a trust fund. He was charged £336 for this.

In response to Mr C's complaint, Nationwide said that Mr C and Ms B had signed application forms stating that they were joint account holders. So it didn't accept that it had made a mistake in opening a joint account rather than a trust account. But it apologised that Mr C had had to chase it for a response to a letter, and for the fact that it had accidentally added Ms B's address to his profile. It offered Mr C £150 compensation.

Mr C wasn't satisfied with Nationwide's offer. He said the solicitor dealing with probate for Ms B's estate clearly thought the Nationwide accounts were joint accounts, and he considers that Nationwide should cover the legal fees he incurred.

One of our investigators considered the complaint, but didn't ask Nationwide to do more. In summary, he thought Nationwide should have realised that Mr C and Ms B wanted to open a trust account. But he didn't think the mistake had caused any direct financial loss. And he didn't think the legal fees Mr C had paid concerned the issue of whether the Nationwide accounts were trust accounts. He thought they'd have been incurred regardless of the issue with the status of the account. He accepted that Mr C had been caused some distress and inconvenience by the discovery that the accounts weren't trust accounts, and having to deal with correspondence from HMRC. But he thought the £150 that Nationwide had offered was reasonable to reflect this.

Mr C didn't agree with the investigator's view, so the complaint's been 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.

Having done so, I've reached the same conclusion as the investigator, and for similar reasons.

I've seen a copy of the application form for one of the accounts which Mr C and Ms B opened. I accept that it was for a joint account. But Nationwide has confirmed that the account was in the name of the will trust, and I think that Nationwide should have made clear at the outset that it wasn't a trust account. I think it unlikely, on balance, that it did so.

I can see that the discovery, some years along the line, that the accounts were, in fact, ordinary joint accounts caused Mr C some distress and inconvenience in having to open new accounts and correspond with HMRC. And although Nationwide has confirmed that no post for Mr C was ever sent to Ms B's previous address, I can understand that having to arrange with Nationwide to have the error corrected would have been a further inconvenience to Mr C at what would already have been a difficult time. But I consider the £150 that Nationwide has offered to be fair to reflect this, and in line with our approach.

Mr C has provided a copy of the correspondence from the solicitor dealing with Ms B's estate. They referred to being aware of a trust of which Ms B was a potential beneficiary, asked for an up-to-date valuation of the trust and evidence of Ms B's beneficial entitlement under it. Mr C's solicitor replied that Ms B was one of a class of discretionary beneficiaries under the trust, but as the trust was discretionary, they didn't believe that Ms B's estate was entitled to any trust assets.

There's nothing in the evidence provided that makes me think that the confusion about the status of the accounts that Mr C and Ms B opened in 2017 had any bearing on the question raised by the probate solicitor. It looks to me as if it purely concerned the question of whether Ms B's estate was entitled to any portion of the assets held by the discretionary trust. So I can't fairly require Nationwide to cover, or contribute to, the legal fees that Mr C incurred.

I'm sorry that Mr C will be disappointed with my decision, and realise that he believes strongly that Nationwide should reimburse him for the legal fees. But for the reasons I've set out, I don't find that I can reasonably require Nationwide to do more than it's already offered to do.

### **Putting things right**

To put things right, Nationwide should pay Mr C £150 as it has offered to do.

**My final decision**

My decision is that Nationwide Building Society should pay Mr C £150 as it has offered to do.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 29 February 2024.

Juliet Collins  
**Ombudsman**