

## **The complaint**

Mr and Mrs H complain that Nationwide Building Society (Nationwide) increased the amount of money that could be held in their loyalty savings account in 2017 but didn't notify them. They also complain about their interactions with Nationwide in connection with this complaint.

## **What happened**

Mr and Mrs H had a loyalty savings account with Nationwide which was opened in 2012. It offered a preferential interest rate and at that time the maximum amount of money that could be deposited into the account was £50,000.

In June 2022, while raising another complaint, Mr and Mrs H found out that on 1 May 2020 Nationwide had increased the account deposit cap to £5,000,000. They complained that they hadn't been notified about this change in 2020. They also highlighted that they had signed up to a Nationwide scheme called 'SavingsWatch' which was meant to notify them of developments relevant to their savings considerations.

Over the following year and a half Mr and Mrs H had a lot of communication with Nationwide and our Service in relation to their concerns. Further complaints were raised during this process in relation to Nationwide's communication and following additional information that came to light.

The complaint about the 2020 deposit cap increase and the associated communication surrounding this is being considered separately.

This decision concerns the following complaint points:

1. In March 2023, nine months into their linked complaint, Mr and Mrs H found out that Nationwide had increased the account deposit cap at an earlier date, on 20 October 2017 to £100,000. They complained both that they hadn't been notified about this change at that time and that they hadn't been told this earlier on in the complaint process.
2. On 6 February 2023 during a telephone call with Nationwide, Mr and Mrs H were told that an email address, unknown to them, was linked to their account. They were told a few days later that this was an error.
3. Mr and Mrs H feel there was missing information from the Subject Access Request (SAR) they raised in 2023. In particular, Nationwide didn't include statements; an internal email about the business's response to the complaint; and call recordings.
4. On 17 April 2023, Mr and Mrs H were given inaccurate information by a staff member during a call with Nationwide about their complaint.

Nationwide looked into these complaints and ultimately advised the following in relation to each of the complaint points:

1. That the deposit cap increase was a positive change, so it did not notify members

individually about this as it was not required to do so under the terms and conditions (T&Cs) of the account. However, it communicated this with branch notifications and on its website on the 'homepage/savings page'. Nationwide also confirmed this change wasn't included in the SavingsWatch updates from that time and said that at that time the SavingsWatch T&Cs did not require members to be notified of positive changes. It apologised for not advising Mr and Mrs H of this deposit cap rise at an earlier stage in the complaint process, but explained that the individual they were dealing with wasn't aware of this.

2. That there was no unusual email address ever linked to the account. The person they had spoken with at Nationwide made a mistake in this call and accessed someone else's information.
3. That statements aren't included in a SAR as standard as they aren't considered personal data, but these were provided when requested as were additional call recordings.
4. It did provide inaccurate information during the call on 17 April 2023 due to the staff member not being familiar with the process. An apology was given.

Throughout the handling of both complaints Nationwide has made two payments for distress and inconvenience. The first was for £200 awarded in November 2022 and this was for poor service when Mrs H first raised the complaint including the way she was spoken to during certain calls and how long it took Nationwide to address the concerns. The second was for £380 awarded in February 2023 for two issues, £190 each, these were: the incorrect information being provided about the email account and incorrect information being provided to our Service about Mrs H's membership of SavingsWatch in relation to the linked complaint.

Which means the only award relevant to the issues I am considering within this decision is the payment of £190 for the incorrect information being given about the email linked to their account.

Ultimately, Mr and Mrs H remained very unhappy with Nationwide's response to their complaints and asked our Service to look into things. Mr and Mrs H told our Service they had lost all confidence in Nationwide. They are of the belief that the constant misinformation they have received in connection with their complaints is a deliberate attempt by Nationwide to confuse the situation, cover up errors and not deal with its communication surrounding the increase in the deposit cap.

Mr and Mrs H explained that they lost interest and experienced huge amounts of stress and worry as a consequence of Nationwide's actions. They told us they felt they had no choice but to undertake the SAR and review vast quantities of information which took a lot of time and energy. They have also felt it necessary to move all of their funds away from Nationwide as a consequence of its actions and said they were worried Nationwide might close all of their accounts. They spoke about the identity theft concerns they had in connection with the email address they were told was linked to their account and the pressure it placed on them.

In resolution to their complaint, they wanted compensation for the financial loss and distress and inconvenience experienced. In addition, they wanted Nationwide to be held accountable for its actions and to be honest and fair to its customers.

Our Investigator looked into things and was of the view that Nationwide had adhered to the T&Cs of the account in the way it communicated the changes to the deposit cap, so he didn't think it had done anything wrong here. He was also of the view the SAR was handled correctly. However, he felt Nationwide had made multiple errors in multiple conversations causing distress and inconvenience. He noted that £190 had been paid in compensation for

these issues and he felt that was sufficient in the circumstances, so he didn't ask Nationwide to do anything further.

Mr and Mrs H didn't accept these findings and made a number of further points, these included:

- If the notification was put on the website, they'd have seen it. That the constantly changing information from Nationwide about the deposit cap increase and who was informed make its evidence unreliable.
- They were of the view the call handler didn't make an error in relation to the email address. That this was initially added by Nationwide in an attempt to explain why they hadn't received a SavingsWatch email in connection with the 2020 deposit cap increase and that this was later removed by Nationwide when it was challenged by Mrs H.
- The crux of their SAR concerns were the missing audio files and internal email not the statements. Nationwide ought to have provided this information as part of the original SAR.
- That the person they spoke with was a representative of the CEO's office. That this was not the only error they'd made including using incorrect names in relation to call handlers.

Because no agreement could be reached, the complaint was passed to me to decide. After reviewing the evidence, I issued a provisional decision so that both parties could have the opportunity to respond before a final decision was issued. In brief, I said that:

- That the 2017 deposit cap had been advertised in branch in line with the T&Cs of the account and this was sufficient in the circumstances.
- That the T&Cs of SavingsWatch at the time didn't require Nationwide to notify customers about the 2017 deposit cap increase either.
- That Nationwide had handled the issue with the linked unknown email address poorly and failed to properly explain how this occurred.
- That the evidence indicated there were omissions from the SAR and that they were provided incorrect information in the call on 17 April 2023.

I said that all of this had caused distress and inconvenience and I felt a further payment of £210 was appropriate to fully account for the impact of Nationwide's errors.

Nationwide accepted my provisional decision.

Mr and Mrs H welcomed aspects of my decision but made some further representations – they didn't think the savings account T&Cs from 2017 said what I'd summarised in my provisional decision.

I had summarised the savings account T&Cs from June 2016 which Nationwide had advised were in place at that time. These stated: *'If the change is to your disadvantage we will....We may make any other change immediately and tell you about it by putting a notice in our branches and/or on the website or an advertisement in the press.'*

But Mr and Mrs H provided a copy of savings account T&Cs from October 2017 which said:

*'Where we change any of the other terms and conditions for your account:*

*(a) if the change is to your disadvantage we will send you a personal notification at least 30 days before we make the change....*

*(b) if we believe the change is not to your disadvantage, we may choose not to wait for 30 days before passing the benefit on to you and may make the change and then tell you about it within 30 days of the change taking place.'*

Mr and Mrs H observed that they weren't told about the change taking place.

I sent Nationwide the T&Cs that had been provided by Mr and Mrs H and asked for its comments. It said that these T&Cs did not suggest that a customer would be personally notified of changes. Nationwide said it did tell customers - through online and branch notifications. Nationwide also provided a copy of a savings account guide, which included savings account terms and conditions within it, also dated October 2017. This said:

*'If the change is to your disadvantage we will tell you about it personally, either by letter, email or secure personal message within the Nationwide Internet Banking site, at least 30 days before we make the change. At any time up to 60 days from the date of this notice you may switch your account or close it without having to pay any charges or interest for doing this. We may make any other change immediately and tell you about it by putting a notice in our branches and/or on the website or an advertisement in the press.'*

After considering this new evidence and the points raised by both parties, I issued a further provisional decision which changed my findings in relation to the deposit cap increase. In brief, I said that the T&Cs Mr and Mrs H had provided were likely in place at that time. I said these T&Cs weren't explicit on how advantageous changes would be communicated but I thought an average person reading these would understand they'd receive some form of direct notification. Given this wasn't done, I thought it was fair to say Nationwide should compensate Mr and Mrs H for the interest they'd lost out on because they didn't know about the 2017 deposit cap increase. I also increased the amount of compensation that ought to be awarded, suggesting that a further £310 was fair here.

Mr and Mrs H accepted my provisional decision. Nationwide confirmed it had nothing further to add. So, I'm now in a position to issue a final decision on this complaint.

### **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 carefully read all of the correspondence our Service has been sent and I understand the sequence of events that led to this complaint. That being said, my decision will only address the complaints detailed above. I also won't address every point or comment raised. I mean no discourtesy by this, it simply reflects the fact our Service is an informal dispute resolution service, set up as a free alternative to the courts. So, in deciding this complaint I've focussed on the things I consider to be the heart of the matter, rather than considering every comment in turn.

I think it's important to stress that it's not our Service's role to punish or sanction businesses – that would be the remit of the regulator, the Financial Conduct Authority (FCA). My role is to investigate whether Nationwide has made any errors and if so try to put Mr and Mrs H back into the position they would have been in had this not happened- providing compensation for distress and inconvenience where necessary.

### **The deposit cap increase**

Nationwide has said it advertised these changes in branch and online, but it didn't notify its customers individually as there was no requirement for it to do so.

Nationwide has provided a copy of the branch notification from October 2017. Whilst I appreciate Mr and Mrs H have lost confidence in Nationwide over the course of this complaint and have speculated as to whether evidence it provided is contrived, I'm satisfied this was likely the notification displayed in branches at that time. I say this taking into account that the notification refers to multiple different products being amended at that time.

Nationwide has told me the same information would have been displayed on the home page and savings pages on its website, but it hasn't been able to provide any evidence of this. It's also not able to confirm how long the notification would have been displayed for. I used a web archive tool to have a look at the website as it appeared at certain points in October 2017 (this tool only shows snapshots of the website as it was on particular days). The savings page showed no notifications on the dates available; the home page had some notifications, but none concerned these account changes. I was able to see the homepage of Nationwide's website as it appeared every 2-4 days from 6 October 2017 onwards, checking six dates before the change and one date afterwards. The weight of this evidence leads me to conclude it's unlikely this information was advertised on the website as Nationwide suggested.

Which means I need to determine if a branch notification was sufficient in the circumstances.

Whilst I originally understood the T&Cs in place at that time were from June 2016, I now have relevant T&Cs from October 2017. It's not clear when in October 2017 these were implemented but Nationwide hasn't disputed their relevance here. And given that the deposit cap increase happened on 20 October 2017, over halfway through the month, I think it's more likely than not these T&Cs apply to this complaint.

The difficulty is that I have two different versions of the savings account T&Cs dated October 2017 – one provided by Mr and Mrs H and the other within the savings account guide provided by Nationwide. I'd note that the guide has a subsection entitled 'terms and conditions' which is just as long as the T&Cs Mr and Mrs H sent me. So, I don't think this document is an abridged or summarised version. Nationwide has been asked about this discrepancy and hasn't clarified why it had two different versions of the same document in place at that time.

Ultimately, I think Mr and Mrs H were entitled to rely on the T&Cs they had. And these T&Cs don't suggest they need to be read in conjunction with the savings guide or any other document. So, I've considered what Mr and Mrs H's T&Cs said about the communication surrounding advantageous changes to the account.

There is no mention within these T&Cs as to how advantageous changes will be communicated. They are silent and therefore unclear on this point. All they say is that Nationwide will *'tell you about it'*. Nationwide has suggested that a branch notification or website notification is sufficient to tell consumers about this change and meet the T&Cs. But having carefully considered this, I'm not persuaded this is the case. I agree that the T&Cs don't say customers will be personally contacted. And I appreciate that branch notification/website notification to inform customers of advantageous changes is Nationwide's stance in other T&Cs, but within other T&Cs Nationwide set that expectation clearly. In other T&Cs I've seen a clause which says that 'tell you' will be done via branch or website notification. These methods of communication aren't mentioned in these T&Cs and they don't clarify how Nationwide will 'tell' customers.

I think the average consumer, reading that they will be told about something (without any further clarification), would expect they would be directly contacted in some way ie. Post, telephone, text, online banking direct message. They might not expect that communication to be personally addressed to them, but they'd expect to be directly told in some way. So, whilst I do think the inclusion of the phrase personal in the earlier paragraph differentiates the two methods of being told, I also don't think it rules out direct contact.

From a fair and reasonable point of view, I just don't think that reading those T&Cs, a consumer would think they'd been told about a change if it had been advertised in branch, particularly in this situation where the consumer has explained they are elderly and don't visit branch very regularly. I think it's a stretch to suggest that Nationwide told Mr and Mrs H about this change in accordance with these T&Cs. Which means that I'm minded to conclude Nationwide didn't do enough here.

So, I have thought about what would have happened had Mr and Mrs H had the information they expected to have received. Based on their actions when they found out about the deposit cap increase in 2022 (immediately moving money into the account), I think they'd have sought to move additional available savings into this account at the earliest opportunity.

Mr and Mrs H have confirmed that at this time all of their funds were held with Nationwide. Which means I think Nationwide needs to review Mr and Mrs H's historic account information and undertake a calculation to work out how much interest Mr and Mrs H have lost out on from 20 October 2017 until the date they moved funds into their account on 30 June 2022. To do so it should assume Mr and Mrs H would have invested their available funds into this loyalty savings account up to the £100,000 deposit cap. It should undertake this calculation assuming that Mr and Mrs H would have kept their funds within this account and calculate compound interest accordingly.

I've considered the distress and inconvenience caused by this error in more detail below.

#### The unknown email address

On the phone call with an advisor I'll call 'M' on 6 February 2023, Mrs H was told she had a duplicate profile linked to her profile but with a different email address on it.

Nationwide later said M failed to verify Mrs H's identity properly and was looking at a different consumer's profile as well as Mrs H's and that there was no link between the two.

Having considered the evidence, I can understand why Mrs H remains sceptical of Nationwide's explanation. I say this as having listened to a call recording Mrs H provided to our Service, I can hear she keys in her account details before getting through to M who then accesses her account. As is explained to Mrs H on a call the following day, these are unique to her and so ought to have brought up only her details not that of other customers. I'd also note that Mrs H gave her name, date of birth and address on the call recording with M and at no point did M suggest this was an error, instead she said the two profiles needed to be merged and that she would arrange this.

On balance, I don't think Nationwide created this duplicate profile to try to explain the missing SavingsWatch communications as Mrs H has considered. I say this because her genuine profile was still showing as opted in to SavingsWatch. So, a duplicate profile wouldn't have provided a sufficient explanation for this. But regardless of whether there was an error in access here or a genuine duplicate profile, I think Nationwide has failed to provide a sufficient explanation of events to Mr and Mrs H (or our Service). And I recognise that this lack of explanation has exacerbated the distress Mr and Mrs H have experienced in connection with this.

Ultimately, I think Nationwide has handled this issue poorly. The initial notification created worry and confusion for Mr and Mrs H and it has failed to provide them with a sufficient explanation to ease their concerns. Mrs H has told us that they were concerned about identity theft particularly given they had their entire life savings with Nationwide. The evidence indicates this prompted them to seek immediate advice from the Information Commissioners Office and request a SAR to try to understand what was happening with their account. Mrs H told us that they then spent hours going through information from the SAR to try to understand what had happened as they felt they had no other choice and weren't getting an explanation from Nationwide. This issue clearly deepened their mistrust of Nationwide and Mrs H has said they no longer felt safe and secure. So, there's evidence of both distress and inconvenience here.

### The SAR

I'd like to make clear that it's not my role to determine if Nationwide have complied with its responsibilities under the relevant legislation - this would be for the Information Commissioners Office. But I have considered whether I think Nationwide has acted fairly in the circumstances and if not, what the impact has been.

Mr and Mrs H are unhappy that the SAR didn't contain all of the information sent to our Service about the complaint and all of the audio files. They have also mentioned that they had issues accessing the call recordings.

A subject access request is an individual exercising their legal right to their personal information. So, it would only entitle an individual to their personal information.

Whilst much of the information gathered over the course of a complaint will contain personal information, not all of it will. Policies and procedures, for example, aren't personal information and so wouldn't be included in this sort of request. Which means I wouldn't necessarily expect a SAR to provide Mrs H with all of the information Nationwide had sent our Service.

The specific internal email Mrs H has mentioned provides a staff member's explanation for something they sent to Mrs H in writing. It references Mrs H in multiple places and Nationwide hasn't provided any explanation for this omission. So, it does seem to me Nationwide made an error here.

The calls Mrs H said were missing are her calls to Nationwide and so, again, I can see why she expected them to be included. Nationwide hasn't provided any explanation for their initial exclusion. Whilst I'm satisfied these were later provided at Mrs H's request, it seems to me there was a delay here and that this delay caused inconvenience necessitating further requests.

I think these omissions caused frustration and impacted Mr and Mrs H's confidence in Nationwide.

Whilst Mrs H has told us she initially couldn't access the information that was sent by Nationwide, she's since clarified her daughter was able to assist and access the original documents. Whilst I appreciate it must have been frustrating to not be able to easily access this herself, I haven't seen any evidence that persuades me Nationwide made an error here, so I don't think it's responsible for this frustration.

### The call on 17 April 2023

Everyone agrees the staff member incorrectly told Mrs H that our Service carried out loss calculations when it was Nationwide that did so. So, I need to consider the impact of this error.

Mrs H stressed that this individual was from the CEO's office, and I can understand why this made the error more impactful. Ultimately, Mrs H has approached the CEO's office due to existing concerns and to have a senior office make further errors, caused her further upset and eroded her trust in Nationwide. Whilst I recognise Nationwide acknowledged this error and apologised, I can understand why in the wider context of this complaint, Mr and Mrs H don't feel this is sufficient.

### Overall

As well as the financial impact, as outlined above, I recognise these errors have had a real impact on Mr and Mrs H, particularly the issue with the email address.

Nationwide has already awarded Mr and Mrs H £190 for the email issue and offered apologies in relation to some of the other errors. So, I need to consider if this is sufficient in the circumstances.

Mr and Mrs H clearly feel very strongly about what's happened. It's had a significant impact on their trust in Nationwide and the issues encountered have taken up their time and energy. Mr and Mrs H have ended up moving the majority of their funds away from Nationwide and Mrs H has become quite upset when trying to discuss this complaint with our Service which reflects the distress experienced. She's told us that this complaint has had an impact on Mr H's health and I have heard that at one stage they were fearful Nationwide would close their accounts due to the number of complaints they were raising. Nationwide have prolonged things and caused additional frustration by providing inconsistent and unclear information to both Mr and Mrs H and our Service.

In reaching my decision, I need to take into account that some of the distress and inconvenience Mr and Mrs H have experienced is a result of the other complaint issues which I am not considering in this decision and cannot award for. So, whilst I appreciate that Mr and Mrs H have experienced all of their complaints as one ongoing issue with Nationwide, I cannot compensate them for all of the distress or inconvenience they've experienced. Just that which I think has been caused by this specific complaint.

Taking into account all of the above, I think Nationwide needs to do more here to put things right. I think a total award of around £500 is fair in the circumstances which means I think it needs to pay Mr and Mrs H an additional £310 for the distress and inconvenience caused.

### **My final decision**

I uphold this complaint and direct Nationwide Building Society to:

- Calculate and pay Mr and Mrs H the difference between the interest they earned on their savings between 20 October 2017 and 30 June 2022 and what they would have earned had they utilised their loyalty savings account up to the £100,000 deposit cap instead. It should undertake this calculation on the assumption that Mr and Mrs H would have kept the funds within their savings and calculate compound interest accordingly.
- Pay Mr and Mrs H a further £310 for the distress and inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H and Mrs H to accept or reject my decision before 9 September 2024.

Jade Cunningham  
**Ombudsman**