

## The complaint

Mrs K has complained about the terms that were applied to her fixed rate cash ISA by Nationwide Building Society when she transferred the proceeds to another provider.

## What happened

I have previously issued a provisional decision regarding this complaint. The following represents excerpts from my provisional decision, outlining the background to this complaint and my provisional findings, and forms part of this final decision:

*“Mrs K deposited £255,400.33 into a one year fixed rate ISA with Nationwide on 27 March 2023. On 3 April Nationwide received a request from Mrs K that these funds be transferred to a new provider.*

*Nationwide initially imposed an early access charge (EAC) equivalent to 90 days’ interest because it stated that the transfer occurred outside the 14 day cooling off period. The 90 days’ interest amounted to £2,361.58, and this was balanced against interest of £446.07 that had accrued on the account from 27 March. As a result, upon transfer a deduction of £1,915.51 was applied to the sum Mrs K had originally deposited in the ISA.*

*Mrs K highlighted that the transfer request had been made within 14 days of the ISA starting, and Nationwide reconsidered its stance. It stated that a 14 day cooling off period did not apply when the accountholder was requesting to transfer funds to another ISA provider. However, it stated that as a goodwill gesture it would not be applying the EAC. Nationwide explained that this meant it would not be deducting £1,915.51 from the transfer, meaning that the sum sent to the new provider equalled the amount that Mrs K had deposited with it on 27 March. It did not however include any interest for the period from 27 March.*

*At this time Mrs K’s husband had also set up a fixed rate ISA with Nationwide, and like Mrs K he had then transferred it to a different provider in a similar timescale. Nationwide applied an EAC to Mrs K’s husband, and he also complained about this. In Mr K’s case, Nationwide agreed both to waive the 90 days’ interest charge, but also to pay interest on the funds for the period they were held in the Nationwide ISA.*

*Mrs K complained to Nationwide about its decision not to pay her the £446.07 interest accrued on the ISA. She highlighted that it had treated her funds differently to her husband in respect of interest. In particular she noted that in its letter to her husband, Nationwide had stated: “I’m really sorry that you didn’t receive interest... This shouldn’t have happened, so we would like to pay you the interest.”*

*Nationwide responded to Mrs K that interest had been added to Mr K’s account as a gesture of goodwill, but that it would not be doing the same on her account. It stated that where an accountholder requests a withdrawal of funds within 14 days of the account opening date, a cooling off period applies, meaning no EAC is charged, and interest is applied. Nationwide said that in contrast, where a transfer request is made within 14 days of the account opening, an EAC is applicable. It said it had made the decision not to apply an EAC to Mrs K’s transfer in light of its decision not to apply one to Mr K’s account, but for Mrs K it was not*

willing to also add interest for the period the account was open. Nationwide described the decision to pay interest as being at the discretion of the complaint handler on each individual case.

Dissatisfied with Nationwide's position, Mrs K brought a complaint to this service.

Our investigator did not uphold this complaint. His view was that under the account terms, Nationwide was entitled to apply an EAC when Mrs K transferred to another provider. The investigator noted that Nationwide had agreed to waive the charge of £1,915.51, but he did not consider that it was required to also add interest for the period that the account was in force.

Mrs K disagreed with the investigator's findings. She stated that in her view, the ISA terms meant that she was entitled to interest, having requested the transfer within 14 days of the account being set up, even if the funds were being transferred to another provider. Mrs K highlighted that when adding interest to her husband's account, Nationwide had apologised for not initially doing this. She questioned how it was fair to apply a different approach to interest for her account compared to her husband, and she forwarded documentation she had obtained from Nationwide which she said showed she was being treated less favourably than others. Mrs K also stated that before it transferred her funds, Nationwide had not warned her that a charge would be applied to them.

### **What I've provisionally 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.

Initially I should confirm that in assessing this complaint, I have considered the specific facts that apply to Mrs K's transfer of her ISA funds to another provider. I acknowledge what Mrs K has said about the similarities between her own transfer and that which her husband requested. I also note her comments about whether it is fair that Nationwide has not added any interest to her funds, but has added interest to her husband's funds. Although I have taken Mrs K's comments about consistency into account, to assess this complaint, I have focused on what the terms of Nationwide's ISA say.

It's agreed that Mrs K contacted Nationwide on 3 April to request a transfer of her funds, having taken out the account on 27 March. The ISA key product information ('KPI') confirms that when closing a one year fixed rate account during its term, an EAC equivalent to 90 days' interest is applicable. It also confirms that when an account is closed during the product term, Nationwide will pay the balance together with accrued interest, less the amount of the EAC. This is initially what Nationwide did when it transferred Mrs K's funds, adding interest of £446.07, before deducting 90 days' interest of £2,361.58.

However, the KPI also states that the EAC "will not apply if the account is closed...during the 14 day cancellation period described in the 'Closing your account' section of the Cash ISA General Terms and Conditions."

In the 'Closing your account' section of the ISA general terms and conditions, term 86 states that "if you open an account and then change your mind, you can tell us you want to close it within 14 days from the date we opened your account." In my view, by asking on 3 April to transfer her funds to another provider, Mrs K was asking to close her account within 14 days of it being opened.

Term 87 then continues to describe a situation where an account holder has decided to close their account, as Mrs K had confirmed to Nationwide that she wanted to do. It states: "If you

*are within the 14 day period, we will return the money you have paid in or you may choose to transfer the balance to another account with us.”*

*Mrs K did not transfer to another Nationwide account. Therefore the question I must consider is whether the circumstances of transferring the funds to a different provider could reasonably be considered to be a situation where Nationwide was “return[ing] the money you have paid in”?*

*Nationwide has stated that when the terms mention ‘returning the money you have paid in’, this means a situation where the funds are being directly paid back to the accountholder. My view is that it is not clear that this is what this wording is referring to. The wording does not refer to ‘returning the money to you’ – or in other words, it does not refer to paying the money directly to the accountholder. I consider that ‘returning the money you have paid in’ could refer to transferring the money to another provider.*

*With that in mind, my view is that this wording is ambiguous. That being the case, I consider it should be interpreted in favour of the party to the contract that did not draft the wording, this being Mrs K. In those circumstances, the full provisions of term 87 would apply to Mrs K’s request, made within 14 days of taking out the ISA, that she wanted to transfer her funds to another provider. Those provisions include that “any interest you have accrued will be paid to you free of any income tax”, and that “you will not have to pay any charges or fees you would otherwise have to pay for closing your account.”*

*This leads me to my current conclusion that Mrs K should reasonably receive the interest that accrued under her fixed rate Nationwide ISA for the period that it was in force, totalling £446.07.*

*Aside from what I have said above, I note that term 6 of the account states that interest is payable on the money in the account from the date it is received. I also note that in the fixed rate ISA ‘Summary box’, under the question “Can I withdraw money?”, it confirms that there is no EAC if you cancel the account within 14 days of opening it. That is what I consider has occurred here.*

*In terms of how to redress matters, I consider Mrs K has been deprived of the interest amount of £446.07 since 11 April, when the ISA was closed. I therefore consider that simple interest at 8% per annum should be added to this amount from 11 April 2023.*

*I also understand that the £1,915.51 that Nationwide initially deducted from the transfer, and subsequently sent on to the new provider, remained with Nationwide from 11 April until 28 June 2023. In the circumstances it seems reasonable to me that Nationwide should pay Mrs K an additional interest amount on this sum for that period, at its fixed ISA rate of 3.75% per annum.”*

## **Responses to my provisional decision**

Nationwide responded that it wished to accept my provisional findings.

Mrs K acknowledged my findings, and highlighted that when Nationwide had resolved her husband’s complaint, it had also paid him £50 compensation. Mrs K stated that Nationwide had acted unreasonably in its consideration of her complaint, and she said that she had found this very distressing. She asked me to consider whether Nationwide should also pay her a compensation amount to reflect the difficulties she had been caused, in addition to paying redress for her financial loss.

## **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.

The parties have confirmed that they, for the most part, accept my provisional findings. I acknowledge what Mrs K has said about the problems she says she has been caused by Nationwide's approach to her complaint, and her observation that her husband was also paid compensation for distress and inconvenience. I have considered her further comments carefully. Whilst I appreciate that Mrs K has been caused difficulties by Nationwide's approach to the claim she has made, on balance I'm not persuaded that these are sufficiently material to require Nationwide to pay additional compensation for this.

As a result, having taken into account the replies to my provisional decision, I do not consider that I have reason to alter the conclusions reached in that provisional decision.

## **My final decision**

My final decision is that I uphold this complaint, and require Nationwide Building Society to carry out the following actions:-

- Pay Mrs K £446.07, representing accrued interest due to her from her Nationwide ISA, plus simple interest at 8% per annum (\*) from 11 April 2023 to the date of settlement.
- Pay Mrs K interest at 3.75% per annum from 11 April to 28 June 2023 on the £1,915.51 amount originally deducted from the ISA transfer.

\* If Nationwide Building Society considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mrs K how much it's taken off. It should also give Mrs K a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs K to accept or reject my decision before 12 April 2024.

John Swain  
**Ombudsman**