

## **The complaint**

Mr and Mrs T, complain that Newcastle Building Society (Newcastle) failed to provide them with an appropriate level of customer service in connection with their family trust.

## **What happened**

The facts of this case are well known to the parties so, I won't repeat it in detail. I would, however, add that there are number of parties who are associated with the general background and, as I've done with Mr and Mrs T, they too have been anonymised.

Briefly:

- Mr and Mrs T were customers of Newcastle.
- In November 2014, Newcastle carried out a financial review on their behalf.
- Based on that review, Newcastle concluded that Mr and Mrs T would benefit from estate planning advice. And to that end, the society introduced them to a company with whom Newcastle said it had an established relationship. I'll refer to the company as W.
- After their consultation with W, and based on its advice, Mr and Mrs T had a will drawn up on their behalf. In addition, and more relevant to this complaint, they set up a family trust for which W arranged for another company to administer the trust and act as its trustees. I'll refer to that company as F.
- In November 2017, W ceased trading and in February 2018 entered into administration. Around that time, F ceased being the trustee of Mr and Mrs T's family trust. A new company, which I'll refer to as P purchased W's assets.
- On 4 December 2018 Mr and Mrs T signed a client care letter agreeing to become P's clients and for P to act as trustees and administer their family trust.
- In April 2022, P also entered into administration. A company, which I refer to as K was appointed as P's administrators.

Mr and Mrs T have told us that:

- When W ceased trading, they were informed F would be in the same position.
- They reached out to Newcastle but received no assistance beyond a vague mention of the possibility of a financial firm which I'll refer to as C being able to help. I'll return to C later.

- When in 2022 P also entered administration, Newcastle did not contact them. And although they reached out to the society, because they were having difficulties getting in touch with P, Newcastle simply referred them to a third party who referred them back to the society.
- Against that background, they instructed solicitors to deal with matters on their behalf - including securing the return of property deeds that were being held by P.
- In doing so they incurred costs amounting to over £5,000. These costs included solicitors' fees and separate charges levied by K.
- Being obliged to cover these costs meant they've incurred financial loss which Newcastle should reimburse.

In response to the complaint, Newcastle said - in summary that they acted only as an introducer to W. They further added that:

- The society had no influence over any advice W gave to Mr and Mrs T and wasn't responsible for the administration of their family trust.
- The fact that W entered into administration was an unforeseen event. But that being said, when the society became aware of the situation, where possible it did look to protect its customers through the provision of alternative services as explained in a letter written in January 2019 which they sent to such customers – including Mr and Mrs T.
- Although in the circumstances of the case, Newcastle have been unable to identify any errors that it had made, nonetheless, they were willing to offer Mr and Mrs T £500 compensation as a gesture of goodwill.

Mr and Mrs T didn't think the society's offer went far enough and so, as their complaint remained unresolved, they referred it to this service to look into.

Our investigator was satisfied that in 2014 Newcastle merely introduced Mr and Mrs T to W. And he also agreed with the society that it was not responsible for the administration of their family trust. That being said, nonetheless, he was satisfied that:

- Newcastle did try to assist Mr and Mrs T as demonstrated by their letter of January 2019.
- The society did send the letter to Mr and Mrs T to let them know they could choose another financial firm C, to administer their family trust instead of P. In particular, because Newcastle had agreed to pay C a £500 subsidy per customer to help reduce the costs of the reassignment. That in turn meant C's charges would be limited to £200.
- In the end, although there was no evidence Newcastle did anything wrong, their gesture of goodwill offer of £500 was fair and reasonable in the circumstances of the case.

Mr and Mrs T didn't agree with the investigator's conclusion and have asked for an ombudsman to review the case. They've largely maintained their position that the society provided no help or support to them, and its £500 offer doesn't properly compensate them

for their loss. They think the investigator merely accepted Newcastle's position without adequate scrutiny. In particular, that he's relied on an undated letter purportedly sent in January 2019 as well as suggesting that because they'd signed an agreement with P, they were at fault for what happened to them.

### **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.

Where the evidence is incomplete or inconclusive (as indeed some of it is here) I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in the light of the available evidence and the wider circumstances.

I start by saying how sorry I am to learn of the unfortunate set of events that Mr and Mrs T have encountered. Firstly, the experience of W entering into administration in 2018. And later still, in 2022 to then be faced with the same position in relation to P.

It is Mr and Mrs T's case that they were not helped by Newcastle when faced with these unfortunate events, the consequence of which was that ultimately, they incurred financial loss for which the society should pay compensation.

But for me to require Newcastle to pay Mr and Mrs T the compensation claimed, I'd need to find that the society had made an error or acted unreasonably towards them – and I don't think it did. It follows therefore that I agree with the investigator's conclusions, and I do so for broadly the same reasons. I'll now explain why in a bit more detail.

#### *Were Mr and Mrs T offered help in the aftermath of W's administration.*

As noted above, it is Newcastle's position that in Mr and Mrs T's case, they acted only as introducer to W, and they were not responsible for the administration of their family trust. I agree with that. It is no part of Mr and Mrs T's case that the society made an error when it introduced them to W. And after such introduction, I'm satisfied that ultimately W, rather than Newcastle, would have been responsible for any estate planning advice they gave to Mr and Mrs T.

That being said, what is at the heart of Mr and Mrs T's complaint is that when W entered into administration, the society should have offered them help which it did not do. So, I've thought carefully about that.

Although Mr and Mrs T have been unspecific about the actual help they were looking for, it seems in all likelihood they would understandably have been anxious in the aftermath of W's administration. And more to the point, concerned about the consequence of the administration on their financial affairs including the family trust.

Newcastle's position on the other hand is that it did offer support to customers including Mr and Mrs T. They explained that the support was dependent on the nature of the product and services the customer had taken out with W, with whom as I've already pointed out, the society acknowledged it had a relationship.

According to Newcastle, in circumstances where a customer had taken trust services through W, which Mr and Mrs T did, the society's support was to offer a referral to C to take advantage of the discounted reassignment arrangement referred to by the investigator above.

Newcastle have provided a copy of the letter which they said was sent to Mr T in January 2019 setting out more fully the nature of the help they were providing.

Having read the letter, I note the assistance offered was wide ranging. But more relevant to Mr and Mrs T's case, under the sub-heading: "*I have a family Trust what does this mean for me*", the letter does set out the nature of the assistance the society was able to provide in that connection.

To begin with, the letter assured Mr and Mrs T's that their family trust was still valid. Furthermore, by way of further reassurance, it went on to say it was the society's understanding that F was beginning to write to customers to confirm changes that would be taking place. The letter added:

*"We have also been made aware that [P] are suggesting to some customers that they should change trustees from [F] to [P] which may not be necessary and could incur charges. Whilst there is no risk to your property and other assets held within your trust we understand that the above could be a cause of distress and concern for our customers.*

*We have negotiated a trustee reassignment package with [C] for those customers who would like to retire [F] and appoint alternative trustees, such as family members, in their place.*

*Changing trustees may provide customers with the reassurance they need and we are pleased to be able to offer you this service at a discounted cost of £200 plus VAT and disbursements. Additional fees charged by [F] may also apply".*

I note although undated, the letter was correctly addressed. Furthermore, the evidence the society has sent me persuades me that it was sent to Mr T to whom it was addressed. Mr and Mrs T appear in some doubt as to whether the letter was received by them. I can't be sure whether it was. In any case, sometimes correspondence do go missing in the postal system and I wouldn't blame the society in circumstances where that occurred.

I've also noted that the letter was sent after Mr and Mrs T had already signed their agreement with P in December 2018. And although Mr and Mrs T have said that in 2017 the society made vague and unspecific mention of help through C, I acknowledge the full details of the society's offer of assistance would not have been properly spelt out until January 2019. But that is not the same as saying no help was offered. So, I do not therefore uphold this aspect of Mr and Mrs T's complaint.

*Were Mr and Mrs T offered help in the aftermath of P's administration?*

As noted above P entered administration four years after Mr and Mrs T concluded their agreement with them in December 2018.

Mr and Mrs T explained they contacted the society when they were unable to reach P. But beyond referring them elsewhere which proved to be fruitless, they said Newcastle were unhelpful. It is at this point Mr and Mrs T incurred costs of around £5000.

Whilst I do not suggest Mr and Mrs T were in any way at fault when they entered into their agreement with P, it is significant nonetheless to point out, that unlike W, Newcastle had no connection with P. P was wholly independent and I've seen no evidence that Newcastle were involved in the 4 December 2018 agreement.

I can appreciate that when P went into administration Mr and Mrs T would have felt some anxiety which in all likelihood was exacerbated when they were unable to contact P.

But I don't think I can reasonably hold Newcastle responsible for that or for any omission to offer them guidance or advice about what steps they needed to take in light of this.

P was an independent company in respect of which K had been appointed administrators to look after its affairs. Reasonably therefore, it would be to that company Mr and Mrs T ought to have turned for help rather than Newcastle. It therefore follows that I do not find that the society should cover the cost of Mr and Mrs T's lawyers to whom they later turned for advice and assistance in light of the difficulties they were having. I've reached the same conclusion in relation to the other costs and charges that they incurred.

### **Putting things right**

Although I've made no order or award in this case, I have noted nonetheless, that Newcastle have offered Mr and Mrs T £500 on a goodwill basis. I'll therefore leave Mr and Mrs T to decide if they wish to accept it

### **My final decision**

For the reasons set out above, my final decision is I do not uphold this complaint and I make no order or award. I therefore leave Mr and Mrs T to decide if they wish to accept Newcastle Building Society's goodwill offer of £500 to settle their complaint

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs T to accept or reject my decision before 10 June 2024.

Asher Gordon  
**Ombudsman**