

## **The complaint**

This complaint is about the way Nationwide Building Society ('Nationwide') dealt with the registration of a Power of Attorney ('POA') granted by Mr C.

The complaint is brought on behalf of Mr C by his representative, whom I'll call Mr C1.

## **What happened**

Mr C1 holds POA for Mr C and is a person entitled to bring this complaint on Mr C's behalf. He complained to Nationwide that he wasn't able to give a definitive 'Yes' or 'No' answer to a question asking if Mr C had mental capacity. And he was unhappy that when speaking to one of Nationwide's call handlers, the line was too poor to be able to continue. To put things right, Mr C1 would like compensation and to see evidence of some real change being implemented in the way Nationwide handles POA registration.

Nationwide didn't agree it had done anything wrong. It didn't feel that call quality had been unacceptable when speaking to Mr C1. And it said that Nationwide considered it important to establish the mental capacity of anyone having a POA registered on their account. Nationwide felt it was reasonable to ask the attorney for this information but said that it valued Mr C1's feedback.

Mr C1 brought the complaint to this service. Our investigator explained that we can't ask Nationwide to change its POA process or alter the forms it uses - we can only decide if Nationwide has acted fairly or not. Overall, he felt that whilst there had been some delay completing the registration, this was due at least in part to Mr C1 not completing Nationwide's POA registration form and answering the question about Mr C's mental capacity. The investigator also mentioned that we could only award compensation for distress and inconvenience caused to Mr C in this situation. So he didn't feel there was anything further we could ask Nationwide to do here.

Mr C1 disagreed, mainly saying that he wanted feedback on how his complaint had been used to improve Nationwide's registration system. He said he didn't think anything had changed and he didn't believe Nationwide's process was correct.

There's been further correspondence but, as the complaint still hasn't been resolved, it has come to me for a decision.

## **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.

This includes listening to the call recordings provided.

I sympathise with Mr C1. I appreciate that acting under the authority of a POA can be a significant responsibility. I can understand why Mr C1 is concerned to ensure that Nationwide's process isn't problematic for attorneys so that it doesn't risk impacting

adversely on the account holders whose interests are at stake. I don't doubt that Mr C1 has found it stressful, frustrating and inconvenient dealing with this matter on behalf of Mr C. But I think it's helpful if I make clear what we can do here.

The role of the Financial Ombudsman Service is to resolve individual complaints and to award redress where appropriate. I do not have the power to make rules for financial businesses. That's the role of the regulator, the Financial Conduct Authority (FCA). For these reasons I can't tell Nationwide to change the way it operates its POA registration process.

In order to uphold this complaint, I have to be able to fairly say that Nationwide has done something wrong or acted in a way that wasn't fair and reasonable AND that this has caused financial loss or some other detriment to Nationwide's customer, Mr C. So that's the approach I've taken.

Although Mr C1 objects to Nationwide giving only options to answer 'yes' or 'no', I don't consider that it was unfair or unreasonable for Nationwide to ask Mr C1 whether or not Mr C had mental capacity. Mr C1 says this was an assessment only a medical professional could make, and the form doesn't allow for any more accurate or detailed response, but it's reasonable to take into account the context here. Mr C1 isn't expected to be competent to provide a medical diagnosis – just to say one way or the other, what he thinks the answer is here. As attorney for Mr C, I think it's reasonable to expect he will have a view on this. As far as I am aware, he hadn't sought or received an assessment from a medical professional saying that Mr C lacked mental capacity for this particular purpose – so I think he could reasonably have chosen to answer in the affirmative. From Nationwide's point of view, this is information it reasonably wants to know and so the form needs to be straightforward for attorneys to complete. Offering 'yes' and 'no' alternatives seems reasonable to me in this situation. If Mr C1 feels that it's important for Mr C to have more detailed notes recorded on his account, he can provide this information to Nationwide separately.

Taking all this into account, I don't find that Nationwide was responsible for any undue delay in processing the registration. In any event, I understand that Mr C wasn't dependent on Mr C1 being able to operate this account for his day-to-day needs. So even if Nationwide had been responsible for things taking longer than should have been the case, I haven't seen anything to suggest this impacted adversely on Mr C.

I am glad that things have moved on since this complaint was first brought and the POA has now been successfully registered.

I'm sorry that Mr C1 had difficulty during one particular call when speaking to Nationwide. It doesn't sound like there was any particular problem at Nationwide's end and I can't see that this impacted detrimentally on Mr C. As our investigator explained, under the rules governing our service, Mr C1, acting as Mr C's representative, isn't entitled to any personal compensation for distress and inconvenience. That's because Mr C1 is acting on someone else's behalf rather than in his own personal capacity when he's complaining as representative for Mr C. I can only tell a business to pay compensation if I identify grounds for upholding the complaint and the customer – in this case, Mr C – has suffered financial loss or distress and inconvenience. I can't award any redress to Mr C1.

I appreciate that my decision will be disappointing for Mr C1, but I hope that setting things out as I've done is helpful.

### **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 21 October 2024.

Susan Webb  
**Ombudsman**