

The complaint

This complaint is brought by Ms K, who is the sole executrix of the estate of Mr C. Her complaint is that Nationwide Building Society will not provide her with all the information she needs to administer the estate – specifically, to bring claims on its behalf.

What happened

Mr C was a customer of Nationwide from 2020 until his death in February 2023. In September 2020 power of attorney had been registered in favour of two individuals. They were removed on Mr C's death.

In April 2023 a freezing order was placed on the account under the Proceeds of Crime Act 2002. That freezing order has been varied to allow inheritance tax payments to be made.

Ms K was appointed executrix on 28 December 2023.

Ms K suspects that one or both attorneys used the account to benefit themselves in the time they had access to it. In order to investigate that and, if necessary, to bring proceedings against them, Ms K asked Nationwide to provide her with information about the operation of the account during Mr C's lifetime. The evidence she has requested includes:

- bank statements;
- copies or scans of cheques drawn on Mr C's account;
- documents relating to any withdrawals and any notes regarding such withdrawals (showing, for example, who was present at the time);
- notes of communications involving Nationwide, Mr C, and the attorneys;
- information concerning the addition of the attorneys to the account; and
- notes of any fraud or other concerns about the account.

Over the course of Nationwide's – and this service's – consideration of Ms K's complaint, Ms K has been provided with some of the information requested (for example, bank statements and some information about the appointment of the attorneys), but she feels it is incomplete.

Ms K referred the matter to this service, where one of our investigators considered what had happened. She did not recommend that the complaint be upheld. She noted that some of the information which Ms K had requested was likely to be commercially sensitive and so could not be provided. But she thought that Nationwide had provided everything it could.

Ms K did not accept the investigator's view and asked that an ombudsman review the case.

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 would be reluctant to conclude that Nationwide has provided everything it can in this case. Nationwide has said, for example, that the information which Ms K seeks could be kept (if at all) in more than one location. Some may be held by the branch, some by its power of attorney department, some at head office. And Ms K says that there was a reference in the freezing order proceedings to fraud concerns; if there were any, it's likely that information would be held somewhere else again (and might well be commercially sensitive).

I do believe however that Nationwide has provided Ms K with the information I would usually expect to be provided to a personal representative following the death of an account holder.

Ms K's reasons for wanting additional information are, of course, a little unusual. She wants to establish whether the estate might have a claim against one of both of the attorneys (and, possibly, Nationwide). That is a perfectly legitimate line of enquiry for her to take, of course. Indeed, she may be obliged as executrix to consider whether the estate has grounds for bringing a legal claim.

However, I do not believe that it would be fair or reasonable for me to make an award requiring Nationwide to produce the documents, or categories of document, which Ms K believes she needs. These are not documents which she needs to operate an account; rather, she is seeking Nationwide's assistance in bringing and running a potential civil claim against a third party or third parties. The information she seeks may assist in that, but it may also show that there are no grounds for a claim at all. To that extent, her request is speculative.

It may be that Ms K can obtain the information and documents she wants through other, legal, means, but I think that is an issue on which she might wish to seek legal advice.

My final decision

For these reasons, my final decision is that I do not require Nationwide to do any more to resolve the estate's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms K to accept or reject my decision before 20 March 2025.

Mike Ingram
Ombudsman