

The complaint

Ms H and Mr H complain that Nationwide Building Society has unfairly charged them interest on their mortgage.

What happened

Ms H and Mr H have a mortgage with Nationwide. Their property is a shared ownership flat in a larger block. In 2020, it came to light that the block was impacted by potentially combustible cladding which needed remediation works.

Around the same time, Ms H and Mr H were trying to sell the property, but this didn't prove to be possible because of the cladding issue. Because they were unable to sell, Ms H and Mr H decided to let it out, and received permission to do so from both the shared owner and from Nationwide.

Nationwide granted consent to let from January 2021. At that time, Ms H and Mr H's mortgage was still on a fixed rate. The rate expired at the end of December 2021 and from January 2022 the mortgage reverted to the standard variable rate (SVR).

Ms H and Mr H say they've asked Nationwide many times since then for a new interest rate but have always been told that they weren't eligible for a new rate because they were letting out the property.

Ms H and Mr H complained about this, and about their wider situation. A staff member dealing with their complaint told them that Nationwide's general policy was not to allow new interest rates on residential mortgages with consent to let in place – but that it made an exemption for customers trapped with cladding-affected property like Ms H and Mr H.

Following that conversation, Ms H and Mr H took a new fixed rate with effect from March 2024. This reduced their interest rate from the SVR – then 7.99% - plus 0.5% letting premium to a fixed rate of 4.99% plus the 0.5%. They now complain that Nationwide didn't make them aware of the exemption sooner and say that if it had done so they wouldn't have had to struggle to pay the higher SVR.

Nationwide said that the exemption wasn't in place at the time Ms H and Mr H were given consent to let. It said it wasn't required to let customers know when it changed its policies.

Unhappy with that, Ms H and Mr H brought their complaint to us. Nationwide told us that it had introduced the exemption in September 2022. It hadn't had any contact with Ms H and Mr H at that time. But they had got in touch in June 2023, and said they were struggling with the monthly payments. Nationwide said it had told them there was nothing it could do at that time, but it now accepted that it should have told them of the exemption. It said that at that time it had a fixed rate of 5.69% available, so it would allow Ms H and Mr H to take that rate (plus the 0.5%) from August 2023 instead of the 4.99% (plus 0.5%) they actually took from April 2024. It also offered £150 compensation.

Our investigator thought Nationwide had made a fair offer in respect of the interest rate, but

that £250 compensation would be more appropriate. And she said the rate should be backdated to June 2023. Nationwide accepted that – but said the rate should be backdated to 1 July 2023, the start of the month following the conversation it had with Ms H and Mr H in June 2023.

Ms H and Mr H didn't agree. They said that the interest rate should be backdated to when the policy changed, in September 2022. They said they had made Nationwide aware of the cladding issues with their property when they applied for consent to let, they had been told they couldn't have a new interest rate, and they couldn't be expected to know that had changed if Nationwide didn't tell them. They said that even Nationwide staff they had spoken to didn't know of the exemption.

I reached a different conclusion to the investigator, so I issued a provisional decision setting out my thoughts.

My provisional decision

I said:

"I'm not persuaded Nationwide has made a fair offer here. When Ms H and Mr H first asked about letting their property, it told them they wouldn't be able to take a new interest rate when their existing one expired. It said the same thing on their January 2022 mortgage statement.

That was true at the time. Nationwide didn't introduce the exemption for cladding affected customers until September 2022. Nationwide said it didn't have to tell customers when it changed its policy.

There's no specific regulatory requirement to do that. But I also have to think about what's fair more widely – including Nationwide's obligations to treat customers fairly and communicate in a way that's clear, fair and not misleading.

Nationwide knew Ms H and Mr H's property was impacted by cladding, because they had explained that when they applied for consent to let. It knew they were on the SVR. And it knew it had introduced an exemption for customers in this position.

But it didn't tell Ms H and Mr H about that. There's no other way they could have found out. In fact, their January 2023 mortgage statement – after the change – said the opposite. It said, on the front page:

"As you're letting your property

We currently have you registered as letting out your property, which means you may be paying an additional 1% on top of your existing interest rate. Just to remind you, if you're paying an additional rate, you also won't be able to make changes to your mortgage, such as switching to a new deal."

But that wasn't true. Ms H and Mr H could switch to a new deal following the introduction of the exemption in September 2022. By telling them that they couldn't, therefore, Nationwide misled them and didn't take account of their information needs.

I wouldn't generally expect a lender to tell its customers about every change of policy – policies can change frequently and not every change is relevant to every customer.

But this particular change was highly relevant to Ms H and Mr H, who would

otherwise be trapped on the SVR. Nationwide knew that, and it knew Ms H and Mr H had no way of knowing about the change – and so no reason to apply for a new rate – unless it told them. But not only did it not pro-actively tell them, it actively misled them in the January 2023 mortgage statement.

Acting fairly, I'm satisfied that Nationwide ought to have told Ms H and Mr H about the change of policy, giving them the chance of making an application for a new rate. I'm also satisfied that if it had done so, they would have applied for a rate.

To put things right, therefore, Nationwide should put Ms H and Mr H back in that position now. It should put in place the two year rate available in September 2022, with effect from 1 November 2022 (allowing time for an application to be made and implemented). That two year rate would have expired in late 2024 or early 2025, so Nationwide should then allow Ms H and Mr H to select a new fixed rate from the range available on expiry of the 2022 rate. It should then re-work their mortgage as if those rates had been in place throughout.

This will result in Ms H and Mr H having made overpayments to their mortgage. Nationwide should give them the option of having the overpayments refunded, adding simple annual interest of 8%, or having them used to reduce the mortgage balance.

When it responds to this provisional decision, Nationwide should set out what rates it had available in 2022, and also at the end of the 2022 rate in 2024 or 2025.

Finally, I'm satisfied that Nationwide's failure to tell Ms H and Mr H about the exemption caused them substantial distress and inconvenience – as shown by their contact in 2023 when the mortgage became more expensive, causing them difficulties. I think that £400 compensation is fair in all the circumstances."

Neither party completely accepted my provisional decision. Nationwide said it accepted that the January 2023 statement could be seen as misleading, so it would agree to backdate a rate to then. But it didn't think it could fairly be seen as having done something wrong by not telling Ms H and Mr H about the change of policy in September 2022. It said it wouldn't have known about the issues with their property and had no way of identifying customers affected by the policy change. It could only rely on being contacted by customers.

Ms H and Mr H said that they believed that the policy had changed not in September 2022 but in 2019, because their mortgage broker had been told that was the case by Nationwide in 2024.

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.

Having done so, I haven't changed my mind about the fair way to put things right in this case. For all the reasons I gave in my provisional decision, I'm satisfied that Nationwide ought to apply a backdated interest rate to Ms H and Mr H's mortgage. Both parties now agree with that – the only remaining dispute is the implementation date.

I've considered the further evidence Ms H and Mr H have provided. It's an email from their broker reporting a conversation with a Nationwide staff member, in which the broker was told in 2024 the policy had been in place since 2019.

However, Nationwide says that's not correct. The policy was implemented in September 2022.

On balance, I accept what Nationwide says. It's provided an internal document from September 2022 introducing the change in policy. I think that's good evidence that it did in fact change at that time. With that in mind, I think either the staff member the broker spoke to was mistaken, or the broker misunderstood the conversation. But I'm not persuaded that this conversation is more likely to be correct than Nationwide's policy change document. On that basis, I don't agree that it would be fair to require Nationwide to backdate a rate before September 2022.

I've also considered what Nationwide says, that it wouldn't be fair to require it to backdate a rate before January 2023, on the basis it couldn't reasonably have been expected to have told Ms H and Mr H about the policy change at that time. I'm satisfied that Ms H and Mr H made Nationwide aware of their reasons for wanting consent to let in 2020. That means Nationwide knew that Ms H and Mr H would be eligible for the new policy in September 2022. But Ms H and Mr H would have had no way of knowing that the policy had changed unless Nationwide told them. I think, acting fairly, it ought to have done so.

My final decision

My final decision is that I uphold this complaint and direct Nationwide Building Society to:

- Rework Ms H and Mr H's mortgage by applying:
 - The best available two year fixed rate they could have selected in September 2022, with effect from 1 November 2022; to be followed by
 - A rate selected by Ms H and Mr H from the range available at the expiry of the 2022 rate, to replace the rate taken in March 2024.

Should either rate include a product fee, the fee may be offset from the refund below.

- Give Ms H and Mr H the choice of either:
 - Having the resulting overpayments used to reduce their mortgage balance month by month from the time of each overpayment, allowing them to benefit from the compounding effect of overpayments; or
 - Having the resulting overpayments refunded to them, adding simple annual interest of 8% running from the date of each overpayment to the date of refund. If Ms H and Mr H select this option, Nationwide may deduct income tax from the 8% interest element of my award, as required by HMRC, but should tell Ms H and Mr H what it has deducted so they can reclaim the tax if they're entitled to do so.

If the rate they took in March 2024 included a product fee, that fee should be refunded in the same way if Ms H and Mr H paid it up front, or removed from the balance if it was added to the mortgage.

- Pay Ms H and Mr H £400 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms H and Mr H to accept or reject my decision before 14 April 2025.

Simon Pugh
Ombudsman