

The complaint

A complaint has been brought on behalf of Mrs T and is that Nationwide Building Society had said it would pay for the costs of appointing a deputy for her but didn't do so and has provided poor service.

What happened

Mrs T is represented in this complaint by her daughter who became her deputy for property and financial affairs through documents acknowledged by the Court of Protection in November 2024. She explains that Nationwide told Mrs T's son that it would pay for Court of Protection fees relating to that application while he had a third-party mandate for the account in place. But it then told him that this was incorrect, and he says the family have had to pay costs of some £2,000. Mrs T's son also complains that Nationwide delayed responding to a Data Subject Access request (DSAR) and provided poor service.

Nationwide accepted that it had sent a misleading email to Mrs T's son about the fees. And it apologised for the stress and inconvenience caused. But it said that the terms and conditions of the third-party mandate stated that the third party, here Mrs T's son, could request payments from the account. And that it was made clear that these would only be coming from the customer's account. So, it didn't accept liability for the costs but said that it offered to pay £100 in compensation. It also offered to pay £75 for not providing a response to the DSAR in the required timescale and a further £75 for poor communication. The total compensation offered was £250.

Our investigator didn't recommend Nationwide do more than it had offered to. He said that he accepted that the email about the costs was poorly written, and implied Nationwide would pay them. That was an error, and he didn't think meant it would be required to cover the costs. He said he thought it most likely that a deputy would have been required to manage Mrs T's affairs generally. He considered that the compensation offered for this error and the issues addressed with the DSAR and service to be reasonable. He noted that Mrs T's son had said that Nationwide had initially sent someone else's data in response to the DSAR. He said that this wasn't a complaint that had been investigated by Nationwide, and it would need to have the opportunity to do so first. He said he understood that there would have been a requirement for it to report this including to the Information Commissioner's Office (ICO).

Mrs T's representative didn't agree and wanted the complaint to be reviewed by an ombudsman. She said that had it not been for the misleading letter from Nationwide they wouldn't have applied for a deputy. She said that Mrs T only had this account and no other business that required looking after. There is only a balance left in the account now that would cover a shortfall on monthly care costs for Mrs T for a year. And had it not been for the cost of the application for deputy there would have been twice as much money. She said that they had only continued with the application believing they had a case to pursue through this service. She said that the offer of £250 was an insult given the wasted costs and the time spent on this. And she wanted confirmation Nationwide had reported itself to the ICO.

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 want to say a bit first about how this complaint has been brought. Mrs T is the account holder at Nationwide and so the eligible complainant. To bring a complaint on behalf of an eligible complainant a person must have authority to do so. The information is that Mrs T unfortunately didn't have capacity to manage her affairs and so give that authority herself. And this service wouldn't be able to look at things unless a representative had the appropriate authority – here provided by the deputy role for Mrs T's daughter.

I also confirm I won't be looking into the complaint point about the incorrect information sent initially for the DSAR and what Nationwide did about that for the reasons outlined by our investigator.

Mrs T's son had a third-party mandate recorded on the account in May 2023 and this was marked as due to expire in May 2024. I need to say that such a mandate is put in place where an account holder has capacity to provide it. There was consideration of making an application to the Court of Protection. And Nationwide responded to an email from Mrs T's son about this on 9 November 2023.

It's accepted that in error this email gave the impression that Nationwide would pay for the costs involved based on an application in Mrs T's name. And not that these could correctly be debited from her account as I understand they subsequently were. Mrs T's son also says that this was confirmed on the telephone and is unhappy that Nationwide says that no recording was made. I note that his expression of dissatisfaction about a change in Nationwide's position was dated as being received by it on 29 November 2023.

I'm afraid that the remedy for such a misrepresentation isn't to make something that was false and never intended to become true. And so, in my assessment this doesn't mean here that Nationwide should pay the costs as it was initially understood it would do. But I will consider what should fairly be done about that error. And I can only look at the impact for Mrs T as the complainant and not for her son and daughter.

I appreciate what's been said about Mrs T's financial position and the significance of the cost of obtaining a deputy. I've seen a copy of an invoice for a capacity assessment of Mrs T dated 16 January 2024 which has been put forward as part of the costs of the application. I'm afraid that in these circumstances and with it seems documented concerns about Mrs T's capacity I don't consider that the third-party mandate could most likely have continued to properly operate going forward. And as is noted was due to expire in any event. I also don't think costs including for Mrs T's care would be taken from her account until they reasonably became due as is now happening. Even taking account of what is said about Mrs T's financial position it seems most likely to me that a deputy would have been required to access money from her account in an appropriate way going forward.

I know that Mrs T's representative doesn't accept that assessment. But in any event she and Mrs T's son reasonably knew Nationwide's position on the matter and their complaint points as set out above. And it was up to them to decide whether to pursue things. And to decide to continue with the application for a deputy with the related costs involved. I don't think them doing so makes Nationwide fairly responsible for the costs.

I need to assess whether Nationwide has offered sufficient compensation for what happened. I take into account the delay with the DSAR and the poor service. Having done so and considered our published guidance about compensation I find its overall offer to be

reasonable. I know that this will come as a significant disappointment to Mrs T's son and daughter given their strength of feeling about what happened.

My final decision

Nationwide has made an offer to settle this complaint which I consider is reasonable in all the circumstances. So, my decision is that Nationwide Building Society pay Mrs T £250.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs T to accept or reject my decision before 11 July 2025.

Michael Crewe
Ombudsman