

## **The complaint**

Mr M1, who holds power of attorney for his father Mr M, complains that Nationwide Building Society failed to register the power of attorney and allowed Mr M to open a new current account.

## **What happened**

Sadly Mr M has a number of health conditions, including dementia. His son Mr M1 holds power of attorney.

Mr M made an appointment to attend a Nationwide branch to open an account. Mr M1 found out about this and contacted the branch to cancel the appointment. But Mr M attended the branch at the time of the appointment, was seen by a staff member, and assisted to open a new current account. He deposited £300 into the account and later withdrew £50.

When Mr M1 discovered this, he complained to Nationwide. He also made several attempts to register the power of attorney so he could close the account.

Nationwide said that the branch staff who opened the account had no knowledge of Mr M's condition, and had no reason to suspect from his demeanour at the time that he might not have capacity to open an account or make a withdrawal. But it accepted that there had been delays in registering the power of attorney, which made it more difficult for Mr M1 to resolve things. It paid compensation of £200 and a refund of the £50 withdrawal into an account held by Mr M at another bank by way of apology, and it closed the new Nationwide account and sent a cheque payable to Mr M for the remaining balance.

Mr M1 wasn't happy with that resolution and brought the complaint to us. He said that he had informed Nationwide that Mr M was vulnerable and lacked capacity. He said that Mr M had tried to open accounts with other banks and been refused, so questioned why Nationwide branch staff had missed the same warning signs other banks had acted on. He said the branch staff had ignored the appointment cancellation and the specific warning Mr M1 had given when cancelling it. He said the appointment should have been recorded and the staff member's account of it wasn't credible. He said that Mr M had been caused stress and anxiety as a result.

Our investigator thought Nationwide's compensation was fair. Mr M1 didn't agree and asked for an ombudsman to review the complaint. He said Mr M had been distressed and upset by what had happened. He hadn't remembered opening the Nationwide account and when he found £300 missing from his other account he thought his carers had stolen it from him. He said Nationwide ought to have acted on what he said when cancelling the appointment, and ought to have identified that Mr M lacked capacity at the appointment. If it had done so, none of this would have happened. He said compensation of between £750 and £1,500 was more appropriate.

## **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'm very sorry to hear of Mr M's condition. I'm sure it's a difficult and worrying situation for Mr M1 and the rest of the family. And I don't doubt the sincerity of Mr M1's desire to ensure his father is protected and cared for, that he isn't caused unnecessary worry or upset, and that his financial affairs are safeguarded.

With that in mind, I've thought carefully about what happened here and whether I think there is more Nationwide needs to do to put things right.

It doesn't seem that Mr M was an existing customer of Nationwide at the time he opened this account. His main bank account was with another bank, and Mr M1 says he had been trying, without success, to open other accounts in local branches of other banks.

Mr M1 says that it ought to have been obvious to Nationwide that Mr M lacked capacity. I've taken what he says about that into account. But, on balance, I'm not persuaded of that. Mr M1 has referred to the Mental Capacity Act, and I've thought about that too. But the Act doesn't say what Mr M1 says it does; it says that capacity should be presumed unless there's evidence to the contrary.

Mr M1 says that Mr M does lack capacity. He has dementia, among other conditions. He lives in a care home. He lacks understanding of his finances, is unable to read or understand documents, and is frequently confused and forgetful.

Mr M1 also says that Nationwide's own system notes record that Mr M lacks capacity, and therefore staff should have been aware of that. But that entry on the system notes comes from May 2025, following Mr M1's complaint and the registration of the power of attorney. At the time of the account opening, in April, the system notes only record that he needed adjustments because of a hearing impairment (such as speaking slowly and clearly, pausing between sentences and checking understanding) and that he could communicate in person and via phone but not online.

Mr M1 has provided a letter from Mr M's GP, from within a few days of these events. The letter says that Mr M was diagnosed with dementia in 2023 after a period of memory decline. It says he "continues to have decline in memory and on assessment 17.4.25 was found to have impairment of memory affecting some recent events and current affairs and with some repetition of statements". The letter does not say that Mr M lacks capacity or is incapable of making financial decisions for himself. Dementia is a progressive condition, and a diagnosis of dementia, or a degree of memory loss, does not inevitably mean a loss of capacity immediately. And the power of attorney document says that the power of attorney comes into force on registration, rather than only coming into force on loss of capacity.

There's therefore no medical evidence I've seen that shows either that Mr M had lost capacity, or that it should have been obvious that he might have done, at the time of the appointment with Nationwide.

I've also borne in mind that Mr M was able to make an appointment with Nationwide for himself. He arrived at the branch at the appointed time. And around a week later he returned to the branch having noted that he hadn't received the debit card he was expecting and asked for a replacement to be ordered. This suggests that he did have an understanding that he wanted to open an account, that he had opened an account, that he was expecting to receive a card but hadn't done so, and that he wanted to be able to make use of the card and account.

I've also borne in mind the testimony of Nationwide's staff. They say that Mr M was hard of

hearing. But he didn't show any indication that he lacked capacity. He was clear about what he wanted, engaged in conversation, and appeared to understand what he was requesting and agreeing to.

On balance, and considering all the evidence, I'm not persuaded that it should have been clear to Nationwide staff – based just on Mr M's interactions with the branch – that he wasn't able to make decisions for himself or that the account should not have been opened.

However, Mr M's interactions with the branch are not the only consideration. There are also Mr M1's interactions. Once Mr M1 found out about the appointment, he rang the branch to cancel it. However, it doesn't seem that Nationwide was given a copy of the power of attorney at this stage – Mr M1 first tried to register it with Nationwide later, after the account had been opened.

The branch manager says she specifically asked Mr M about power of attorney in the appointment and he said there wasn't one in place – that wasn't correct, but I don't think she could have known that at the time. And in any case, unless he had actually lost capacity, the existence of a power of attorney wouldn't prevent Mr M making his own decisions – it enables someone else to act on his behalf, but doesn't mean he can't act too.

Taking everything into account, I think Mr M1's concerns when he called to cancel the appointment should have been taken into account. But even so, I'm not persuaded that it was wrong for the account to have been opened. As I say, there's no medical evidence to show that Mr M had in fact lost capacity at the relevant time. The Mental Capacity Act says that capacity should be presumed unless there is evidence to the contrary. And Mr M's own conduct in making an appointment in advance, attending the appointment at the agreed time, opening an account, and then chasing up the debit card some time later shows a degree of understanding about his financial affairs. The existence of a power of attorney does not stop Mr M making his own decisions while he retains capacity to do so, and I'm not persuaded on the evidence available to me that it should have been clear to Nationwide that Mr M was unable to do so.

Once the account was opened and Mr M1 found out about it, he tried several times to register the power of attorney. He handed in copies of it to the branch and the branch failed to pass it on. That shouldn't have happened. I think it was reasonable that once Nationwide knew about the power of attorney, and understood more about Mr M1's concerns about Mr M's condition, it acted on Mr M1's instructions to close the account. In my view, the clear failing in this case was the delay in doing that, not agreeing to open the account in the first place.

I've thought about the appropriate level of compensation. As I say, I'm not persuaded on balance that Nationwide did anything wrong in opening the account. Mr M has not suffered any financial loss as a result – the £250 balance was returned to him and the £50 withdrawal was refunded. And while Mr M1 says that having opened an account and then not remembered doing so, Mr M was upset by what he thought was money having gone missing, I don't think it would be fair to require Nationwide to compensate Mr M for the consequences of opening the account when I'm not persuaded it was unreasonable to do so. The key failing was the delay in registering the power of attorney and the inconvenience and worry that caused Mr M1. But Mr M1 is not the complainant, and so I have no power to make an award of compensation to him.

I'm sorry to disappoint Mr M1. I do understand why he is concerned about what happened. I've considered everything very carefully. Nationwide has already paid Mr M £250 compensation. In all the circumstances, I don't think it would be fair for me to require it to do anything further.

**My final decision**

My final decision is that Nationwide Building Society has made a fair and reasonable offer to settle this complaint and I don't require it to do anything further.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M1 on behalf of Mr M to accept or reject my decision before 5 January 2026.

Simon Pugh  
**Ombudsman**