

complaint

Mr A complains that Nationwide Building Society will not reissue a cheque he lost after he closed his fixed rate bond account.

background

Mr A closed a fixed rate bond account with Nationwide in 2010. Nationwide issued a cheque for £50,202.74. Mr A said that he gave the cheque to his father for safe keeping but that he's recently discovered his father hasn't got it and that the cheque has been misplaced.

After investigation Nationwide confirmed that the bond account had closed in February 2010 and that its systems weren't showing that £50,202.74 was outstanding. But it said that as it was only required by law to keep documentation for six years it unfortunately couldn't provide evidence that the cheque had been cashed. But as its systems didn't show that any outstanding hadn't been cashed, it couldn't issue a replacement cheque.

Mr A complained to this service. The investigator felt that Nationwide had done enough to show that it didn't have an outstanding amount owing to Mr A and felt that it wouldn't be fair to ask it to reissue the cheque. Mr A wasn't satisfied and so asked for a final decision from an ombudsman. He felt that it would be fair and reasonable to ask that Nationwide reissue the cheque. He couldn't understand why there was no record of the money by means of an audit.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I realise that this will be a disappointment to Mr A but I do agree with the investigator and for much the same reasons.

Mr A has said that he closed the account in February 2010 and the bank has confirmed this. Nationwide has said that its records show that the funds were drawn using a cashier transaction which would either be cheque or cash. It said that it's likely that a cheque was issued given the high amount. And Mr A has said that he did receive a cheque. So I think it's most likely that a cheque was issued.

I asked Nationwide to explain in more detail what happens when a cheque is issued in such circumstances as this. It said:

- If the cheque is drawn and uncashed then there will be an outstanding record on the Corporate Cheque System (CCS) until it is cashed. If the cheque has been stopped and re-credited then this would also mean there would be no outstanding withdrawal. Likewise, if it has been stopped and replaced then there would be no withdrawal outstanding under the original cheque number but Nationwide would be able to see if a replacement cheque for this amount was still outstanding.
- No Funds outstanding means there is no cheque withdrawal outstanding with this amount/cheque number. If it was cashed in the last six years Nationwide can then confirm the date it was cashed. If it was cashed but over six years ago Nationwide cannot be certain what happened to the original cheque (as above - it could have been stopped and re-credited or stopped and replaced) so all it can say with certainty is that there are no funds outstanding.

- The CCS will hold records of cheques cashed within the last 6 years. Nationwide can be certain a cheque has not been cashed in the last six years as there would be a record of this still available. After six years it can surmise that something has happened to the funds as there are no funds outstanding but cannot confirm what this is.

Nationwide has searched CCS using combinations of each of the criteria (account number, cheque number from the withdrawal form and amount) but the search has shown that there are no funds outstanding. This would indicate that the cheque was cashed more than six years ago. I've no reason to doubt this system.

But Mr A has said that neither he nor his father cashed the cheque because he's looked at both his and his father's account records and can't find any record of this amount being credited to either account.

I've thought very carefully about what could've happened to the cheque over the seven and a half years, whether it was cashed or not. It's not possible to say conclusively what happened to it because the evidence is incomplete. In such circumstances I must make my decision based on the balance of probabilities – that is, what I consider is most likely to have happened.

Mr A has given slightly conflicting accounts of what he intended to do with the money. He has said that he gave the cheque to his father for safe keeping. But this implies the cheque would be written out to him. I've seen a copy of Mr A's withdrawal form. The form states that the reason for withdrawal was 'gift for father' and that the cheque should be addressed to a different name that Mr A has identified as his father.

Mr A has also told us that Nationwide have informed him that they wouldn't have issued a third party cheque. I don't have any evidence of this but from the withdrawal form I can see that it's possible they would have.

After further inquiry Mr A said that his intention was to gift the money to his father for an investment; that at the time they were considering a property investment that never came to fruition. He's also said that he gave the cheque to his father for deposit in his account for safe keeping. So I think it likely that a cheque was issued and addressed to Mr A's father. And if Mr A and his father were planning to invest the money in property I'm persuaded that Mr A's father would've cashed the cheque quite quickly, in anticipation of an investment, so that the funds would be available.

Mr A has also said that he gave the money to his father for safekeeping. In the event this was the case I would also expect that the cheque would be deposited quickly so that the funds were secure.

Mr A told us that initially he intended to withdraw the balance of his account in cash but was advised not to by branch staff. This indicates to me again that Mr A intended to use the money quite quickly.

While I don't dispute Mr A's accounts of what he intended for the money it's not clear to me whether Mr A was actually gifting the money to his father or asking his father to look after it on his behalf. And Mr A himself was uncertain of who the cheque was made out to. A gift implies that Mr A gave the money to his father to do with as he pleased. If Mr A gave the

money to his father only for safekeeping then I'm minded to question why Mr A didn't, at any point in the past seven years, check with his father that the cheque or money was indeed safe, particularly as this is a substantial amount of money. I'm also not disputing that the money was intended for a property investment but I'm persuaded by the written evidence on the withdrawal form and by the fact that Mr A hasn't checked on the security of the cheque or money in the past seven years that the money was a gift to Mr A's father. I think it's likely that his father cashed the cheque quite soon after receipt. And I'm satisfied that it's possible that through the passage of time Mr A's father hasn't remembered that this happened.

Mr A has said that Nationwide has provided as evidence records beyond six years including account closure details and the withdrawal form. Nationwide has said that it can't trace cheques or electronic payments beyond six years and I have no reason to doubt that this is the case. Mr A has asked for an end to end credit chase. I'm not disputing that he has checked accounts of his and his father's but Nationwide has provided evidence that the cheque amount is not outstanding in their system. If the cheque hadn't been cashed, I'm persuaded that the amount would show up in the CCS.

The records that show Mr A's bond account as closed form part of Mr A's account history which the bank has because he is an existing customer with other accounts. The copy of the withdrawal form was provided by the branch. I understand Mr A's frustration especially as other banks he has accounts with have informed him that they would be able to trace further back than six years. But it's not my role to look into a business's processes or compare it to other businesses. The reason Nationwide believe the cheque has been cashed is because the amount is not outstanding in the CCS. The reason why it doesn't know when it was cashed is because it doesn't keep those records beyond six years. And there is no obligation on a bank or building society to keep records on a closed account for more than six years.

I realise that this is not the news Mr A wants but I think it's most likely that his father cashed the cheque very soon after receipt, so I won't be asking Nationwide to do anything further.

my final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 15 June 2018.

Maxine Sutton
ombudsman