

## **complaint**

Mr B complains about charges applied by Nationwide Building Society to his account.

## **our initial conclusions**

In November 2006 Nationwide charged a fee for a returned unpaid direct debit and this took Mr B into an unauthorised overdraft. There was no further activity on the account apart from monthly charges and fees. In May 2007 a demand for payment was made for £195.30. Mr B did not respond. In January 2008 the account was transferred to Nationwide's collection department and in January 2009 a default was registered for £446.57. The adjudicator did not consider that Nationwide had acted fairly and reasonably when it delayed the registration of the default. In line with ICO (Information Commissioner's Office) guidance she was satisfied that this should have been when Nationwide did not receive a response to the demand for payment. The building society did not agree. It said that the ICO guidance "*did not say a default had to be issued after three or six months*".

## **my final decision**

To decide what is fair and reasonable in this complaint, I have considered everything that Mr B and Nationwide have provided.

Whilst reference has been made about the length of time it took Nationwide to register the default it seems to me that the main issue is whether it was fair and reasonable for it to continue to apply charges and fees when it did not receive a response to its demand for payment in May 2007. At that time it gave Mr B five days to clear the debt. When he did not respond to this request I am satisfied that it should have suspended the charges and fees and passed the debt to its collections department with a view to registering the default.

**My decision is that in full and final settlement Nationwide Building Society should backdate the default date to 1 June 2007 and refund all fees and charges applied since then.**

**Under the rules of the Financial Ombudsman Service, I am required to ask Mr B either to accept or reject my decision before 12 November 2013.**

*Linda Freestone*

*ombudsman at the Financial Ombudsman Service*

The ombudsman may complete this section where appropriate – adding comments or further explanations of particular relevance to the case.

#### **ombudsman notes**

#### **what is a final decision?**

- A final decision by an ombudsman is our last word on a complaint. We send the final decision at the same time to both sides – the consumer and the financial business.
- Our complaints process involves various stages. It gives both parties to the complaint the opportunity to tell us their side of the story, provide further information, and disagree with our earlier findings – before the ombudsman reviews the case and makes a final decision.
- A final decision is the end of our complaints process. This means the ombudsman will not be able to deal with any further correspondence about the merits of the complaint.

#### **what happens next?**

- A final decision only becomes legally binding on the financial business if the consumer accepts it. To do this, the consumer should sign and date the acceptance card we send with the final decision – and return it to us before the date set out in the decision.
- If the consumer accepts a final decision before the date set out in the decision we will tell the financial business – it will then have to comply promptly with any instructions set out by the ombudsman in the decision.
- If the consumer does not accept a final decision before the date set out in the decision, neither side will be legally bound by it.