

## **complaint**

Mr G is unhappy that Nationwide Building Society passed his complaint to the company (which I'll refer to as "C") which surveyed a property he was trying to buy. He says this is a breach of the data protection act and has led him to worry that the surveyor will be dismissed and seek revenge on him.

## **background**

In 2015 Mr G applied for a mortgage with Nationwide. Unfortunately the application didn't proceed as there were queries over the property's surrounding commercial units.

Mr G complained about this in 2015 and Nationwide issued a final response. Within its response Nationwide said it had forwarded Mr G's concerns to C.

A few months ago Mr G referred a complaint to us about how Nationwide handled his mortgage application. An ombudsman colleague recently issued a decision on that complaint explaining that it had been made too late so we weren't able to consider it. That's because Mr G hadn't made the complaint within six months of Nationwide's final response letter.

Mr G also raised new concerns about Nationwide passing the complaint to C, and that is what's being considered here as this separate complaint. Our adjudicator didn't recommend the complaint be upheld. Mr G didn't agree so the matter has been passed to me to decide.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

This complaint's essentially about how Nationwide handled Mr G's dissatisfaction about the mortgage application (in that it passed the complaint to C) and whilst it's not out of time, there is another reason why we can't consider it.

Our powers are set out in our rules, known as the DISP Rules. These set out the matters that we can investigate as being; regulated activities, payment services, lending money, paying money by plastic card, and ancillary banking services. In addition, we can consider complaints about ancillary activities carried on in connection with the above.

The handling of complaints is not itself a regulated activity. It's something that the regulator – the Financial Conduct Authority (FCA) – requires financial businesses to do. But that isn't enough to make it a "regulated activity" within the meaning of the rule – that is, one of the list of activities set out in the legislation from which we derive our powers.

I'm able to consider concerns about complaint handling in some limited circumstances. For example, if the complaint handling was ancillary to something I do have the power to consider. But Mr G's complaint about his mortgage application was brought to us too late, so we don't have the power to consider it – which means I also don't have the power to consider his concerns about the ancillary issue; that is the way his complaint was handled.

If the underlying complaint about the handling of the mortgage application by Nationwide had been brought in time then, not only would we be able to consider that, we'd also be able to consider how the complaint was dealt with.

Mr G is asking us to consider the way Nationwide handled his complaint. But I don't have any power to look at complaint handling in isolation. So, whilst I know Mr G feels poorly treated, this isn't a matter we are allowed to look at.

In any event, as our adjudicator explained, we're not the body to consider complaints about breaches in the data protection act; that's the role of the Information Commissioner's Office ([www.ico.org.uk/for-the-public/](http://www.ico.org.uk/for-the-public/)).

But that's not the end of the matter. We can look at whether or not Mr G has been caused a financial loss by having his personal information passed to C. This is a separate matter to whether or not the information should have been passed (which, as I've explained above, is not within my power to consider) and is something I *can* look at.

Mr G hasn't demonstrated any loss, and his concerns the surveyor would be dismissed and come after him to seek revenge don't appear to have come into fruition as it's been nearly two years since this all happened and Mr G is still only talking about a hypothetical situation. That's not to say for sure that the surveyor won't be dismissed in the future and seek revenge on Mr G, but it's not a likely scenario, especially as Mr G himself seems to think it was Nationwide that caused the problem rather than the surveyor.

If a situation occurs in the future where Mr G's worries come into fruition and the surveyor (or C) seeks revenge, then that's a matter he can raise at the time through the appropriate channel; it may be that's us, the Royal Institution of Chartered Surveyors or the police.

### **my final decision**

I don't uphold this complaint. Under the rules of the Financial Ombudsman Service, I am required to ask Mr G to accept or reject my decision before 13 November 2017.

Julia Chapman  
**ombudsman**