

complaint

Mrs A complains that Yorkshire Building Society (YBS) did not properly explain the terms and conditions of a new savings account to be managed by a third party bank, which means that she has lost interest. She also says she was not told that YBS would receive a commission from the third party bank when the account was opened. She wants YBS to transfer her savings into a cash ISA and pay her 3.45% interest.

background

When Mrs A's cash ISA neared its expiry, she decided to transfer it to a protected capital account with YBS that was to be managed by a third party bank. She did this because the potential return was higher than available in a cash ISA with YBS. She became concerned that commission fees would be paid out of any interest earned and that her money would not earn any interest between November 2011 and February 2012. YBS explained that, although a commission would be paid by the third party bank and it was obliged to tell Mrs A this, that commission did not affect Mrs A's interest or account in any way. YBS went on to explain that there was a delay in opening her account at the third party bank, but that during that period, YBS had paid interest on her balance.

our adjudicator's view

The adjudicator did not recommend that this case should be upheld. He concluded that Mrs A opened a long-term savings account as she did not need access to her money (about £20,000) and that there is no evidence that YBS did not explain the terms and conditions to her properly. Mrs A has responded to say, in summary, that YBS did not explain that she would lose interest between the transfer date (November 2011) and the issue date (February 2012).

my provisional decision

After considering all the evidence, I issued a provisional decision on this complaint to Mrs A and YBS in September 2013. I summarise my findings.

Mrs A completed an application to transfer her savings from a cash ISA to a protected capital account on 16 November 2011. I have looked at the records held by YBS and signed by Mrs A, which do indicate that YBS explained the terms and conditions attached to the new account to Mrs A, although I appreciate that she says this is not the case. So, I do not find that YBS made an error at this point and it would be inappropriate for me to instruct the society to transfer Mrs A's money to a different type of account.

Those terms and conditions say that, if cleared funds were received by 21 November, a 0.5% bonus would be paid when the account matures in 2018, which equates to just over £100.

YBS says the application was lost in the post when sent to the third party bank, but has not provided evidence of sending it. It was only when the third party bank queried the non receipt of the application that YBS processed the application correctly. That meant the application was received too late to qualify for the bonus. I find, on balance, that there was an error here.

YBS also says that, even if sent on time, Mrs A would have missed the cut-off date for the bonus interest as the cheque – the method it used to send Mrs A's money – would not have cleared. I am not persuaded by this argument, especially as there is no specific definition of what "cleared" means on the information about how to qualify for the bonus. There are several definitions of "cleared" funds when a cheque is deposited. If the application and cheque had been sent on time, the money may have met one or more of the definitions of cleared by the cut off date.

So I conclude that, without YBS' error, the money would most probably have reached the third party bank in time and qualified for the bonus.

If Mrs A qualified for a bonus, she would receive about £100 if she holds the investment for its full term. As YBS paid interest on her ISA from 21 November to 7 December Mrs A has had some benefit already – about £16. The bonus is only due if Mrs A holds her new account to maturity, but it seems to me that a fair resolution to the complaint would be to pay Mrs A half of the bonus now plus £25 compensation for the distress and inconvenience she has suffered.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

Mrs A has accepted my provisional decision.

YBS says it sent applications like Mrs A's regularly. I accept that, but YBS cannot show me that it sent this particular application, so I remain satisfied that there was an error.

YBS has also argued that, under normal cheque clearance rules, there was never enough time between Mrs A completing her form and the cut off date for the bonus. I am not persuaded by this. I have considered the standard clearing cycle (since 2007) where interest is normally paid after day 2 and as there were 3 working days between signing and the cut-off date, I am satisfied that my provisional decision should stand.

my final decision

My decision is that I uphold this complaint. In full and final settlement I, order Yorkshire Building Society to pay Mrs A half of the bonus she would be entitled to plus £25 compensation for distress and inconvenience.

Susan Peters
ombudsman