

complaint

Mr and Mrs M complain that Nationwide Building Society sent out their title deeds via standard post. The deeds went missing. As a result Mr and Mrs M had to pay a fee for a missing deed indemnity. Mr and Mrs M want Nationwide to compensate them for the cost.

background

Mr and Mrs M sold their home which they'd bought in 1994. The property had a restricted covenant. Mr and Mrs M had a mortgage with Nationwide. As part of the sales process Mr and Mrs M's solicitor asked Nationwide to provide a copy of the original pre-registration deeds so that he could look into this further. And be able to answer any questions about the restricted covenant.

Mr and Mrs M say the solicitor who they engaged in 1994 to buy the property would've sent the pre-registration documents, which included all the information about the restricted covenant to Nationwide.

Nationwide said in 2002 it sent all the deed paperwork it received in 1994 to the Land Registry when they were converted to electronic copies. And if Mr and Mrs M's solicitor hadn't been able to obtain a copy of the pre-registration deeds from the Land Registry it's because it was never sent to them in the first place. Nationwide explained that it sends deed documents by standard post as title deeds are held electronically and copies of the information and documents it holds can be obtained, by anyone, from the Land Registry, for a small fee. So it didn't think it should reimburse Mr and Mrs M.

However, Nationwide did accept that it could've handled things better. It said it shouldn't have asked Mrs M's solicitor to provide a further letter in May 2018. And it accepted it had kept Mrs M on the phone too long when she called. Nationwide offered Mrs M £75 compensation for this poor service and any inconveniences caused.

Mrs M accepts that the pre-registration deeds aren't with the Land Registry, but insists *all* the paperwork was provided to Nationwide in 1994. She says Nationwide has made a mistake and didn't get everything scanned in 2002. And it should've sent the deeds to her solicitor via recorded delivery. If it had done this she says the deeds wouldn't have gone missing. This resulted in Mrs M having to pay £280 for a missing deed indemnity policy. And she wants Nationwide to reimburse this cost.

Our investigator said the purchase took place some years ago and without an audit trail she was unable to establish what happened to the deeds. So she couldn't safely say that Nationwide was responsible for misplacing them or that it had actually been provided with the pre-registration deeds in 1994. She didn't think it was likely that the pre-registration deeds were amongst the missing paperwork because the deeds weren't loaded electronically in 2002 at the Land Registry. In other words Nationwide couldn't lose something it never had. So she didn't think Nationwide had done anything wrong.

my findings

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

Mr and Mrs M are approaching the matter on the basis that the deeds were lost while in the possession of Nationwide. But Nationwide has no record of receiving them from Mrs M's solicitor in 1994. And unfortunately, I've not see any evidence that it did. I've also kept in mind that the paperwork loaded with the Land Registry in 2002 didn't include the pre-registration deeds. So either Mrs M's solicitor never sent them or if they did they were lost in transit. So I can't say Nationwide has done anything wrong.

I do understand that what Mrs M really wants is her documents. But, however much I'd like to, I can't produce these. I can see that the investigator has asked Nationwide to make a thorough search. And she's made enquiries with the Land Registry and provided Mrs M with copies of all the paperwork recorded in 2002. She also provided Mrs M with further information about other entries concerning her property on the Land Registry so that Mrs M could pass this onto her solicitor in the hope it might track down the missing paperwork.

Mr and Mrs M are also unhappy about the safety of documents sent in the post by Nationwide. They say the documents should've been sent via recorded delivery. And not sent them by standard post. I have some sympathy with this viewpoint – Nationwide has provided evidence from its systems of the letters that it says were sent, and their destination addresses. So I'm satisfied Nationwide *sent out* the paperwork it held to Mrs M's solicitor. I should say though that there is no regulatory obligation for mail to be sent by recorded or special delivery – standard post is generally seen as adequate.

In summary, I can't order Nationwide to do more than it has offered to do in the absence of any evidence that it received the pre-registration deeds in 1994. So I don't consider it fair or reasonable to require Nationwide to pay the costs of a pre-registration indemnity policy.

Nationwide has accepted it should've provided Mrs M with better service. In particular it accepts Mrs M had to stay on the phone for too long and her solicitor was given wrong information. Nationwide has offered Mrs M £75 for the inconvenience this caused. I understand this offer is still available. So I leave this up to Mrs M to decide whether she wants to accept this offer.

my final decision

For the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs M to accept or reject my decision before 21 October 2018.

Sharon Kerrison
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