

summary of complaint

Mr and Mrs P complain that Nationwide Building Society (Nationwide) didn't add Mrs P to her husband's current account in 2017, prejudicing Mrs P's position.

background

Mr P has a flex current account with Nationwide. Mrs P opened an individual savings account (ISA) with Nationwide in 2016.

Mr P asked Nationwide to add Mrs P to his flex account in May 2017. Mr and Mrs P completed an application form, which included information about Mrs P's nationality (it was noted on the form that this question was included for regulatory purposes). Nationwide wrote to Mrs P and said that it couldn't add her to the account, as its immigration checks indicated that she didn't have leave to enter or remain in the UK.

Mr P complained to Nationwide. Nationwide said it had followed correct procedure, including relying on information from a checking system called CIFAS, which is well used and links to Home Office and credit reference agency information. Nationwide said it hadn't unfairly discriminated against Mrs P as everyone has to go through the checks.

Mr and Mrs P weren't happy with Nationwide's response and initially complained to our service in 2017. An investigator looked into the complaint and felt that Nationwide acted fairly and had carried out the necessary checks before deciding that Mrs P couldn't be added to Mr P's account.

In 2018 Mr and Mrs P applied again to have Mrs P added to her husband's current account. Their application was successful.

Mr and Mrs P complained again to Nationwide. They thought that as Nationwide added Mrs P to Mr P's account in 2018, it should have done that in 2017, particularly as Mrs P had her own ISA with Nationwide since 2016.

Nationwide responded to Mr and Mrs P's complaint in April 2019. It said it was satisfied it had acted correctly in not adding Mrs P to the account earlier, based on the information it had received from Home Office checks, which it wasn't in a position to challenge. And it said it was also satisfied there had been no prejudice to Mrs P. Nationwide confirmed that there were different levels of checks for current accounts compared to savings accounts, with current accounts typically needing more checks. Nationwide told Mr and Mrs P they could take their complaint further if they wanted. So, they complained to our service.

An investigator considered Mr and Mrs P's complaint and was satisfied with Nationwide's explanation about why it had taken the approach it did. In light of that, they couldn't say that Nationwide should have done anything differently.

Mr and Mrs P didn't agree with the investigator's view, so the matter has been passed to me to decide.

my findings

The rules that our service follows (which are known as the DISP rules) say that we may decide to dismiss a complaint if we think it's appropriate to do so. One of the factors relevant to whether we dismiss a complaint is where we've already considered a complaint about the same subject matter. That's clearly the case with Mr and Mrs P's complaint – they're still unhappy with the decision that Nationwide made in 2017. At that time, our investigator gave their view of how Nationwide had handled things and felt that Nationwide acted reasonably when it decided not to add Mrs P to her husband's account.

Mr and Mrs P say that they have new information, which is that Mrs P had an ISA in her own right since 2016. So, as far as Mr and Mrs P are concerned, that in itself should have meant that Nationwide would add Mrs P to Mr P's account in 2017, particularly as it did so in 2018. For these reasons, they think we should look into that issue again.

I've thought about all of this and how it affects whether I should consider the complaint now. Having done so, I'm not minded to exercise my power to dismiss the complaint. I think it would be helpful for Mr and Mrs P to have a decision that addresses their key concerns and the information to which they've referred.

I don't consider the fact Mrs P had an ISA in her own right is new information. I say that because Nationwide would have known about the ISA from 2016 when it considered Mr P's request in 2017, given that the account was already up and running by that point. In any event, I've seen Nationwide's response in relation to what happened in 2017, which says that the checks it carried out for current accounts were different from savings accounts checks because savings accounts don't include the ability to arrange a credit facility. I don't think that response appears unreasonable given that different types of accounts do have different features attached to them.

Part of the reason for Mr and Mrs P's ongoing concern is because they say Nationwide relied on Home Office information that wasn't right. So, I've thought about this.

I'm aware that banks and building societies have responsibilities under the Immigration Act 2014 (updated in 2016) to ensure that applicants for current accounts have the required leave to enter or remain in the UK. If an applicant doesn't have the required immigration status, they might be considered a 'disqualified person'. And the Immigration Act 2014 prevents financial businesses from opening current accounts for 'disqualified persons' or adding them to existing accounts, so it's important that financial businesses perform the right checks.

According to the Financial Conduct Authority (FCA) guidance, to ensure they're complying with the law, financial businesses can carry out immigration status checks. And these checks typically involve a search of the CIFAS database, which accesses information from the Home Office's database amongst other sources. Where the checks indicate that the applicant might be a 'disqualified person' they should let the Home Office know. And if the Home Office confirms that the person is a 'disqualified person' the financial business should let the applicant know. From 2018, there's also a requirement to carry out periodic immigration checks on existing accounts.

So, taking account of the legal requirements for financial businesses along with their responsibilities under the other guidance I've mentioned, I don't think Nationwide has done anything wrong in carrying out the checks that it did and in informing Mr and Mrs P of the outcome. And whilst I appreciate that Mr and Mrs P don't think the Home Office's information was right, I think Nationwide was entitled to rely on it when carrying out its initial checks to

decide whether Mrs P should be added to Mr P's account. I say that because CIFAS appears to be a standard tool used by financial businesses when carrying out immigration checks.

But that said, I did think about whether Nationwide could have done anything more, such as ask Mrs P for clarification or verification of her immigration status when Mr and Mrs P challenged Nationwide's decision. Mr P seems to think that Nationwide was wrong not to have done this. But I'm not persuaded that it should have done. I say that because I don't think it's Nationwide's role to gather and interpret evidence relating to a person's immigration status. Instead, Nationwide along with other financial businesses relies on CIFAS checks, which access information from the Home Office's records. And when that information raises queries about whether the applicant has the required leave to enter or remain in the UK, it seems reasonable that the financial business would refer the applicant to the Home Office to address any anomalies. Nationwide did that - and I can't say it was wrong to have done so.

Overall, I'm satisfied that Nationwide's decision in 2017 appeared reasonable in light of its legal and regulatory responsibilities; the checks it carried out and the results it received. And so, it follows that I can't say Nationwide has prejudiced Mrs P.

Nationwide was satisfied in 2018 that it was able to fully verify Mrs P's identity and immigration status (and added her to her husband's account as a result). And Mr and Mrs P again feel that that means Nationwide's decision in 2017 was wrong. I don't agree. I think it was simply the case that the outcome of its checks in 2018 were different to 2017. And it was that that ultimately meant Nationwide felt able to add Mrs P to Mr P's account.

For all of the reasons I've outlined, I won't be upholding this complaint.

I appreciate that Mr and Mrs P might be unhappy with my decision, but I hope they understand the reasons for it.

my final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs P to accept or reject my decision by 6 August 2020.

Amanda Scott
ombudsman