

complaint

Mr M says Nationwide Building Society (Nationwide) said it would close a current account he held with his ex-wife but failed to do so. He thinks this enabled his ex-wife to be able to withdraw funds he had deposited from another linked joint account.

background

I issued my provisional decision on this case on 11 January 2019. A copy of it is attached and it forms part of this final decision. The full background to the complaint is set out in my provisional decision and as such I won't reiterate it here.

In my provisional decision I explained why I was planning on upholding the complaint and asking Nationwide to refund the £1,000 Mr M had lost, with the addition of interest. I asked Mr M and Nationwide to let me know if there was anything else they wanted me to consider.

Nationwide agreed to pay Mr M according to my provisional decision and Mr M accepted my findings.

my findings

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

As both Nationwide and Mr M agreed with the decision, I see no reason to change my provisional findings. I'm therefore upholding Mr M's complaint, for the same reasons given in my provisional decision.

my final decision

I uphold Mr M's complaint against Nationwide Building Society and require it to pay him the £1,000 that was transferred from the joint account with the addition of 8% simple interest from the date Mr M paid it into the account to the date of my decision.

Nationwide has already paid Mr M £350 for the inconvenience caused which I think is fair and reasonable in the circumstances of this case.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 1 March 2019.

Keith Lawrence
ombudsman

copy of provisional decision.

complaint

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background

Mr M had three accounts with Nationwide. A joint current account opened with his now ex-wife in 2007, a joint e-savings account opened in October 2009, and a sole account opened in March 2011. Mr M says at some point in 2009 he and his wife split up. Nationwide has confirmed it blocked the joint current account in 2014 because it was made aware of a marital dispute but it couldn't close the account without both parties consent.

In 2017 Mr M contacted Nationwide about a problem with his sole account. During the conversation Nationwide said it was now possible to close the joint current account if it contacted Mrs M and she didn't respond. It would then close the account and split the proceeds. But Nationwide didn't close the account as it said it would.

Mr M contacted Nationwide in March 2018 to re-register for online banking. Following this registration he paid £1,000 into the e-savings account. His ex-wife transferred the money to another account on 4 April 2018.

Mr M complained to Nationwide. He said he'd never been told the e-savings account was held jointly and Nationwide said it would be closing down his joint current account so he couldn't understand why his ex-wife had been able to transfer the money.

Nationwide said it had sent him annual statements which showed the e-savings account was held jointly. It did accept that it hadn't closed the joint current account as promised and has paid Mr M a total of £350 for not closing his account when it should have and also for poor communication. Dissatisfied Mr M referred his complaint to us.

One of our investigators looked into the complaint and said it shouldn't be upheld. She said that Nationwide had made Mr M aware that the account was in joint names through the statements it sent him each year.

She also said that not closing the joint current account wouldn't have stopped Mr M's ex-wife withdrawing money from the e-savings account. She said Nationwide hadn't done anything wrong by allowing her to withdraw the money as she was legally entitled to withdraw funds from a joint account.

Mr M disagreed as he believed Nationwide had never made him aware that the e-savings account was in joint names. And, in any event, he assumed any joint accounts would have been closed together.

my provisional findings

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

Nationwide said Mr M was made aware the e-savings account was held jointly from the statements he received and because it referred to the account using a different account number. The terms and conditions of the online e-savings account stated it was "*an online only instant access account linked to the current account*" which meant "*The account must be opened and held in the same names as the Nationwide current account used to open it*". So I'm satisfied that Nationwide did make Mr M aware the account was held jointly. I also think Mr M would have been aware of that because he didn't use the account after he and Mrs M had split up.

But when Mr M spoke with Nationwide in 2017 about his sole account I think he was confused and frustrated over which accounts were joint and which were held in his name, especially as he'd been unable to use his joint current account for many years because it was blocked. At that point Nationwide told Mr M it would be able to close the joint account. So, I can understand why Mr M believed he could safely use the e-savings account, which remained open, after he was told the joint accounts would be closed.

Nationwide was made aware of a marital split in 2014. But it couldn't close any accounts without both Mr and Mrs M's consent. But during the call in 2017 Nationwide suggested it could now close Mr M's joint account as there hadn't been any transactions on the account for 24 consecutive months. Nationwide has said it expects an account holder to give specific details of any accounts it might want to close in the event of any dispute. But Mr M didn't request any accounts to be closed at this point, it was a suggestion from Nationwide when Mr M contacted it about his sole account.

So I've thought about this very carefully. It had been sometime since Mr M's joint and sole accounts had been opened, and I'm satisfied that Mr M – during the telephone call, was confused about which accounts were joint and which were sole. And I think that Nationwide – as the expert in this situation, should have confirmed with Mr M which accounts he wanted to close. And I can't see that it made Mr M aware of that option. I think it was reasonable for Mr M to have assumed Nationwide would have included the savings account within that recommendation and I think I would have expected it to do so as well.

I say that because the terms and conditions of the savings account made it clear that the account was linked to the current account and that "*Withdrawals can only be made to a FlexAccount held by at least one of the e-Savings holder(s)*". So the proceeds of the account could only have been paid into a current account owned by (at least one) of the joint account holders.

I think it's fair for Mr M to have assumed that Nationwide would have treated these accounts in the same way, especially as the savings account was so closely linked to the joint current account.

Mr M said it was only when Nationwide promised him it would close the joint accounts and sort out his access to online banking that he deposited money in the e-savings account. And I can see that's what he did. I therefore think he was entitled to trust Nationwide would not have put him into a position so that, when he made a payment into an account, his ex-wife was able to transfer money from it.

I don't think Mr M would have paid money into an account if he suspected that could have happened, there was no need for him to have taken that risk.

Nationwide said it's paid Mr M a total of £350 for not closing the account and for poor communication during the situation. I think that's a fair and reasonable sum for Nationwide to have paid for all the distress and inconvenience Mr M suffered. I wouldn't ask it to pay any more. But I think that if Nationwide had closed all the joint accounts, as I think it should have done, then Mr M would be in a different situation. I've not seen that there is a dispute that the money transferred in wasn't Mr M's own money or any evidence to suggest that Mrs M was entitled to some or all of the money. So I think he would still have the funds that he transferred into the joint e- savings account which his ex-wife was able to transfer to another account.

my provisional decision

So, for the reasons I've given, my provisional decision is that I intend to uphold Mr M's complaint against Nationwide Building Society. Nationwide should put Mr M back into the position he would be in now, had he not transferred his funds, by refunding the £1,000 with the addition of 8% simple interest from the date Mr M paid it into the account to the date of my decision.

Keith Lawrence
ombudsman