

The complaint

Ms P complains that Nationwide Building Society sent her a letter saying she had opted into investment advice when she had previously opted out. She further complains about the way it treated her in respect of her complaint.

What happened

Ms P had been making a monthly payment for ongoing investment advice to Nationwide. She had decided to opt out and received a letter dated 3 March 2023 confirming this. She subsequently received an e-mail on 29 March thanking her for deciding to opt in and inviting her to take part in a survey.

She called into her local branch of Nationwide to ask why the e-mail had been sent to her. She spoke to an adviser who took her details and then passed her onto another adviser. The second adviser explained that the investment advice was provided by another company (A) and proceeded to telephone A to establish that the monthly payment had been cancelled. Ms P tells us that she didn't want to speak to A as she thought it was Nationwide's responsibility to explain why the e-mail had been sent to her. She says she told the adviser that, but the adviser persisted and handed her the phone to speak to a representative of A. She was upset with the way the matter was handled and left the branch.

She subsequently raised a formal complaint with Nationwide. It did say that it would talk to her about the complaint, but after not being able to contact her by phone, and sending her an e-mail, it wrote a final response letter.

In that letter Nationwide said that the e-mail she received on 29 March was a marketing letter which had already been in the pipeline before the 3 March letter and it wouldn't have been able to be recalled. It did address what happened in the branch and said that its advisers did the best they could have done which they thought was putting her in direct contact with A. However the letter went on to criticise Ms P for her conduct when in the branch. She was extremely upset about what was said about her and contacted Nationwide. It said it was genuinely sorry for the misunderstanding and upset caused but could only conclude that the staff member at the branch was doing what she felt was her best to help and was herself surprised and upset with how things developed.

On referral to the Financial Ombudsman Service, our Investigator established from Ms P that she wanted a formal acknowledgement from Nationwide that it had made a mistake. However Nationwide said it had no evidence to suggest the branch staff acted incorrectly or had made a mistake.

Our Investigator said that Nationwide had acted fairly and did not recommend that it take any further action.

Ms P was unhappy with this and advised that we should listen to the full recordings of her telephone calls with Nationwide.

The matter has been passed to me for further consideration..

What I've decided – and why

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

Where the evidence is incomplete or contradictory, as some of it is here, I will make my findings on what I consider in my opinion is most likely to have happened. But if I am unable to reach a conclusion on some parts of the complaint I shall say so. In considering this matter, I have listened to the full call recordings between Ms P and Nationwide which are dated respectively 3 April and 24 April 2023.

letter of 3 March and e-mail of 29 March 2023.

Ms P, having opted out of receiving investment advice, received a letter from Nationwide confirming that she would no longer have to pay the monthly charge. I can understand that she was disturbed some weeks later to receive an e-mail saying that she had opted into the investment advice and that she required confirmation that she was still opted out. I do note Nationwide's explanation that the e-mail was marketing material and contained a survey. As these sorts of surveys would normally be carried out by an external company, I think it was just unfortunate timing in Ms P's case as she had already opted out. I don't think there was any error on Nationwide's part here.

actions of members of staff in the branch

I do have to bear in mind here that there were no recordings or CCTV of what happened so I have to rely on the recollections of Ms P and the various members of staff concerned. I understand that Ms P was unhappy about explaining her complaint in the open branch but she had gone to the branch to get an answer to her complaint. In respect of speaking to two advisers, we've been told that this was because the first adviser had to go on her lunch break. Whilst I understand this was annoying for Ms P, I think this was reasonable.

As for answering Ms P's queries about the contradictory letter and e-mail she had received, rightly or wrongly the adviser took the view that she needed confirmation that she was no longer liable for the monthly charge. In order to do this the adviser telephoned A. I know Ms P objects to being told that she was given a "warm" handover but this is just an expression to confirm that she was put through to someone who could give her an answer. I understand also that Ms P did not want to speak to A and in hindsight it might have been better if the adviser had told her that she couldn't be given an answer straight away. However I don't think I can criticise the adviser for deciding to proceed in that way.

handling of the complaint

Though, as our Investigator has rightly said, firms' complaints handling is not a regulated activity, we can look at individual complaints and how they were handled in relation to the main complaint itself. Our Investigator did address this.

There were two phone calls that Ms P had with Nationwide. Following the first phone call she was told to expect someone to get in touch with her within three working days. However she was then later sent e-mails explaining that there was a delay. The complaints handler at Nationwide says he made two attempts to contact Ms P by phone. The calls were made to her mobile phone as it was expected that this would more likely have a voicemail facility. However Ms P confirmed that she does not have voicemail on her mobile phone. He also sent her an e-mail which Ms P agreed she hadn't read.

That said I can understand that Ms P was very distressed to get a response from Nationwide

which not only responded to her complaint but also said her conduct in branch had upset the members of staff concerned. Regrettably, again with hindsight, it would have been better if the complaints adviser had spoken to Ms P on the phone prior to responding to her complaint. But businesses do have deadlines to respond to complaints and I understand that the complaints adviser, having attempted to speak to Ms P felt he had to set out the response to the complaint in writing. And I think it was a matter for his judgement for him to decide whether to mention Ms P's alleged conduct.

That said, and bearing in mind as I've said there are no CCTV or other recordings available, I can't reach a conclusion that Nationwide acted rightly or wrongly in respect of Ms P's alleged conduct.

Overall, I think that Nationwide provided a fair and reasonable explanation for the initial letter and subsequent e-mail Ms P received. I also think that it handled Ms P's complaint appropriately.

My final decision

I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms P to accept or reject my decision before 3 January 2024.

Ray Lawley
Ombudsman