

The complaint

Mr C complains that Nationwide Building Society:

- Charged him for an ongoing advice service which he didn't agree to and didn't use.
- Gave his personal details to a third-party without his permission.
- Arranged for a third-party financial advisor to contact him without notifying him and without his agreement. He received unprofessional service from that advisor.

He wants Nationwide to apologise and compensate him for the investment growth he's missed out on because of the fee deductions.

What happened

Mr C opened a stocks and shares ISA in 2007 in a Nationwide branch and made monthly contributions. Nationwide didn't recommend the ISA. The ISA manager changed three times over the years.

In 2022, Nationwide wrote to Mr C to tell him that it was changing the way it charged for its advice services. Mr C complained that he hadn't agreed to any advice charges and that this was a service he hadn't used. He explained he'd received contact once in 2021, but this had been unrequested and from a third-party who'd provided an unprofessional service. Mr C asked for the charges to be refunded.

Nationwide said the ISA was sold on a non-advised basis and it was for Mr C to review the documentation, including information about the charges, before he agreed to go ahead. It said commission was payable to Nationwide by the ISA manager. In return, Mr C had access to a Nationwide financial advisor and received the services of its investment committee who monitored the underlying funds and contacted Mr C if it had any concerns about those funds. It explained how the charging structure changed in 2016 and that Mr C had received communication about the charges, which made it clear that Nationwide received commission.

Nationwide said it hadn't shared Mr C's personal information with any third parties – he received a phone call from a Nationwide financial planning manager. It said it couldn't find a recording of the online meeting which took place but apologised for the way Mr C said it was handled and paid him £100 compensation.

Our investigator didn't recommend that the complaint should be upheld. She didn't think Nationwide had acted unreasonably and thought the payment of £100 was a fair outcome.

Mr C didn't agree. He said, in summary, that:

- He accepts that the key features stated that commission was payable and that there were no explicit charges for Nationwide's service or ongoing advice. But when the ISA manager changed to another provider, he didn't expect both businesses to make a

charge.

- He doesn't recall receiving correspondence in 2015 and 2016, but he doesn't see how these would have made him realise he was paying for a financial advice service that he'd never asked for, and never used.
- The phone contact he received was unprofessional, bearing in mind the current climate of scam calls. The call was received without warning, and he was worried it wasn't genuine. When he contacted Nationwide to check, there was confusion about what had happened.
- He was paid £100 by Nationwide by way of an apology for the way the advisor "turned" on him when he wouldn't provide him with sensitive personal information. He was never given the opportunity to discuss if he was happy with this payment and feels the service provided by Nationwide was very poor.

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.

Firstly, I'm aware that I've summarised this complaint in far less detail than the parties and in my own words. There is a considerable amount of information here but I'm not going to respond to every single point made. No discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome.

Secondly, Mr C opened the ISA around 16 years ago and, as Nationwide is not required to keep records indefinitely, there are limited records available from that long ago. Where the evidence is incomplete, inconclusive, or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

Having carefully considered everything, I find I have come to the same conclusion as the investigator for the following reasons:

Nationwide didn't recommend the ISA to Mr C in 2007. So it wasn't responsible for ensuring the ISA was suitable for him. It was responsible for providing Mr C with enough information for him to decide it was the right product for him. It was usual industry practice at the time for the introducer – in this case Nationwide – to receive a commission from the ISA manager out of the annual management charge. I think it's more likely than not that Mr C would have been made aware of this before he agreed to take out the ISA. I say this because the arrangement was normal industry practice at the time and there was a regulatory obligation on Nationwide to disclose it. The commission payment was not optional.

The commission Nationwide received gave Mr C access to a Nationwide advisor if he wanted advice about his investment. Nationwide has provided evidence that a financial review meeting took place in October 2008. So I find Mr C did make use the service, albeit there is only evidence of one review. Nationwide's investment committee continuously monitored the underlying funds in the ISA and contacted Mr C from time to time if it had any concerns about those funds. I can see that it wrote to Mr C in 2021 explaining that one or more of the funds he held weren't performing as well as Nationwide would expect and

recommending he reviewed his investments. It's possible Nationwide contacted Mr C on a similar basis over the years too, but records of this contact are no longer available.

Overall, I'm satisfied that Nationwide provided an on-going service to Mr C in return for the commission it received and that Mr C reasonably should have known he had access to a financial advisor if he wanted a review.

Mr C says he didn't expect Nationwide to continue to receive commission when the management of the ISA passed to a third-party. But Nationwide continued to provide the advice services outlined above. And I can see from the correspondence that Nationwide has been able to provide that this was made reasonably clear by the new ISA managers, and in correspondence about the FCA's retail distribution review.

I don't find Nationwide passed Mr C's personal information onto an unauthorised third-party. The individual who phoned him in 2021 was a Nationwide advisor.

I appreciate Mr C's concerns about receiving the call, and he was right to be cautious to ensure this was not a scam. There isn't a recording of the call, so I can't conclude whether the Nationwide advisor should have done more to reassure Mr C or to prove to him that the call was genuine. But Nationwide had recently sent Mr C a letter recommending he arrange for a review of his investments, and I would think it more likely than not that the advisor referred to this at the outset of the call. Mr C suggests he would have felt more comfortable if the advisor had arranged for the meeting to take place at a branch. I understand this, but I don't know if he suggested this to the advisor during the call. In any event, Mr C told us that he followed up the call by contacting Nationwide to satisfy himself that the call was genuine before going ahead with the online meeting. I appreciate Nationwide staff took some time to be able to provide Mr C with the reassurance he needed and that this must have been frustrating for him. But he hadn't given the advisor any personal information at this stage, so shouldn't have been unduly worried.

Mr C says that during the online meeting he was asked for personal financial information that he didn't want to share with the advisor. And that the advisor then became rude and ended the meeting. Nationwide wasn't able to access a recording of the online meeting when it investigated Mr C's complaint. It apologised for any unprofessional service and paid Mr C £100 compensation. I think it's likely that the advisor would have explained that he wanted a full picture of Mr C's financial position so that he could provide him with the most suitable advice. But, as this was a review that Nationwide had recommended because of concerns about the performance of some of the underlying funds in Mr C's ISA, its advisor should have accepted Mr C might have only wanted advice about that, and not about any other aspect of his finances. I'm satisfied Nationwide has apologised for the way Mr C was made to feel and that it paid him £100 as a gesture of goodwill. I think this is fair and reasonable in the circumstances.

Mr C says he wasn't given the opportunity to discuss the compensation payment. Nationwide could have asked Mr C if he wanted to accept the £100 before it paid it to him. But I don't find it was obliged to do this, so I can't conclude it acted unreasonably.

My final decision

For the reasons I've explained, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 11 September 2023.

Elizabeth Dawes
Ombudsman