

The complaint

Miss Z complains Nationwide Building Society (“Nationwide”) is refusing to refund her transactions she didn’t authorise. And that it blocked and withheld the funds in her account before closing it - and provided her with poor customer service.

What happened

From around the middle of July 2020 up until the beginning of August 2020 several transactions, largely carried out online, were made from Miss Z’s account. A few days after the last transaction, Miss Z contacted Nationwide to report her card stolen and make a fraud claim against the transactions. Miss Z also explained she had lost her mobile phone.

Miss Z isn’t clear exactly what transactions she didn’t authorise given the passage of time. Nationwide don’t have the call recording for the first call Miss Z made when the transactions were reported to it as fraud.

The transactions made over the period Miss Z broadly says the fraud occurred are well known to both parties. So, I don’t need to list them expressly here.

Later in August 2020, Nationwide sent Miss Z a letter in which it explained it was giving her 60 days’ notice of closing the account. Nationwide also decided to block Miss Z’s access to the money held in it. Miss Z was permitted to withdraw any wages from the account during this period but was told she would need to provide evidence of her salary.

Unhappy with Nationwide’s actions Miss Z complained. Nationwide did not uphold Miss Z’s complaint – some of the key points it made were:

- Miss Z had confirmed some payments, which she disputes, were genuine through its fraud detector system
- Miss Z had made similar claims with the same merchants within the last 12 months – this being her third such claim
- When it believes a false claim has been made it can review its customer relationship. Nationwide has closed Miss Z’s account in line with the terms and conditions of the account
- It had caused undue delay with dealing with the fraud claim and promises to call Miss Z were not kept. Nationwide sent a cheque of £50 to Miss Z as compensation for its poor service

Miss Z referred her complaint to this service. One of our Investigator’s looked into her complaint. In summary, they made the following findings:

- Nationwide had shown the transactions were authenticated
- Nationwide’s records show transactions flagged by its fraud systems had been confirmed as genuine by Miss Z or someone using her phone

- Miss Z is unable to remember exactly which transactions were made fraudulently. And Nationwide don't have the initial call recording where this was reported by her. But Nationwide has provided the dataset which shows which transactions were disputed. As this is headed 'total approved fraud', they were persuaded the transactions listed were those which Miss Z disputed
- The 'confirmed as genuine' payments would form part of the disputed transactions as Miss Z has said she didn't have possession of her card throughout the period of the spend
- Miss Z said she'd lost her phone at the time and reported the loss of the SIM card to the operator and requested a replacement. But the mobile phone operator told us Miss Z had not ordered a new SIM. This casts doubt on Miss Z's version of events. Because of this, and the other reasons, it's most likely Miss Z authorised the transactions
- Nationwide has legal and regulatory obligations it must adhere to. And to do that it may choose to review its customers accounts, which may also mean restricting them. Nationwide's terms of account also permit it to do this
- Nationwide say it caused a delay over around two and a half months from when it should have released all of Miss Z's funds to when it did
- Apart from the delay in the funds being released, there wasn't any evidence to support Miss Z's argument she had received poor customer service
- Nationwide's terms allow it to close Miss Z's account in the way it did, and those terms have been applied fairly
- To put things right, Nationwide should pay Miss Z 8% interest on the funds it withheld from 28 August 2020 till when they were released. And it should pay an additional £200 for the upset and trouble it caused

Nationwide accepted our Investigator's recommendations. Miss Z did not. It follows the complaint has now been passed to me to decide.

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.

Having done that, I've decided to part uphold Miss Z complaint. I'll explain why.

Disputed transactions

In short, Nationwide is required to refund the amount of an unauthorised transaction. The relevant regulations, to this effect, are the *Payment Services Regulations 2017 (the PSRs 2017)*.

Miss Z says she didn't make several payments between July 2020 and August 2020 and is seeking a refund of them. Nationwide have given me copies of its technical records. Having carefully reviewed them, I am satisfied the genuine card details were used in order for the disputed transaction to take place.

So I'm satisfied the payments were authenticated in line with what the PSR's say.

But the regulations relevant to this case say that is not, on its own, enough to enable Nationwide to hold Miss Z liable. So I also need to think about whether the evidence suggests it's more likely than not Miss Z consented to the transactions being made.

Miss Z can't remember exactly what transactions are disputed. And Nationwide doesn't have the call recording in which she first reported these. But Nationwide has given us its records which shows which transactions it recorded as disputed by Miss Z. In light of no other information being available, I'm persuaded this is likely to be an accurate record of what transactions Miss Z disputes.

Nationwide have given me further technical records which show either Miss Z, or someone who had her phone, confirmed payments flagged by Nationwide's fraud systems as genuine. This process would have been carried out by a user positively confirming the payments as genuine when prompted through Miss Z's mobile phone.

These affirmations of the payments being genuine happened around the beginning and middle of the period in which Miss Z says the fraudulent transactions were carried out. I've listened to a call between Miss Z and Nationwide in which she says she's just reported her mobile phone as lost and requested a new SIM.

Given the fraud transactions started a couple of weeks before this, and the phone was used to confirm payments as genuine around that time, I do question why Miss Z hadn't reported her phone and SIM as lost or stolen much sooner. It's unlikely a phone isn't identified as missing within moments, or at worst, a few days of it disappearing. Because of this I further question the plausibility of what Miss Z says happened.

Miss Z is clear both in her interaction with our Investigator, and on a call with Nationwide, that she had ordered a new SIM card with the mobile phone operator. But the operator has told this service it never received any such request from Miss Z. This therefore adds further doubt to the plausibility and credibility of Miss Z's testimony.

Given what I've said above about the veracity and plausibility of Miss Z's testimony, I'm persuaded it's most likely she consented, and so authorised the payments she disputes.

Nationwide say this is the third claim of this type, made within a calendar year, by Miss Z. It also says a previously backlisted device has been used again to make some of the transactions. Nationwide hasn't given me conclusive proof about this device. But when I take these submissions into account along with what I've already said, I'm further persuaded Miss Z authorised the payments.

This means Nationwide does not need to make any refunds to Miss Z for transactions she disputes to having made.

Account review and closure

Banks in the UK are strictly regulated and must take certain actions in order to meet their legal and regulatory obligations. They are also required to carry out ongoing monitoring of an existing business relationship. That sometimes means banks need to restrict, or in some cases go as far as closing, customers' accounts.

Having looked at the information I've been given by Nationwide, I'm satisfied it had genuine concerns, and so reason enough, to review and then block Miss Z's account.

By doing so Nationwide blocked substantive funds held in the account. But Miss Z was permitted to withdraw her salary from the account by going into a Nationwide branch with the required proof of identity and address. She also had to show proof of the authenticity of her salary. I'm satisfied Nationwide acted fairly by asking her to do this, though I can sympathise this step may have caused some delay in Miss Z accessing essential funds.

Nationwide say it should have given all of Miss Z's funds to her at the end of August 2020 and not blocked them until November 2020. As Nationwide accept it got things wrong here, I'm satisfied it needs to take steps to put things right to compensate Miss Z for the delay and any trouble and upset this may have caused.

A bank is entitled to close an account just as a customer may close an account with a bank. But before a bank closes an account, it must do so in a way, which complies with the terms and conditions of the account.

The terms and conditions of the account, which Nationwide and Miss Z had to comply with, say it could close the account by giving her at least two months' notice. And in certain circumstances it can close an account immediately or with less notice.

Having looked at the information given to me by Nationwide, I'm satisfied it was entitled to close the account in the way that it has done. As I said above, Nationwide had written to Miss Z to explain its actions, and in doing so signposted her to the relevant part of its terms and conditions that it was exercising this action under.

In any event, Nationwide didn't close the account for a while longer than it said it would, thereby giving Miss Z more time to make alternative banking arrangements.

Customer service

It's clear Nationwide failed to release Miss Z's funds sooner than it should have. Nationwide has also accepted it failed to return calls promised to Miss Z and caused some delay with the fraud investigation. Because of that it awarded Miss Z £50 compensation.

I haven't seen anything else which shows Nationwide provided poor service. But Nationwide does need to award Miss Z more compensation for the delay it caused to her accessing her funds.

Having given this some thought, I'm satisfied Nationwide should compensate Miss Z for any lost interest from when the funds should have been released up until when they were. And that it should pay her £200, which is in addition to the £50 its already paid, for the trouble and upset this delay likely caused Miss Z.

Putting things right

To put things right, Nationwide must:

- Pay Miss Z 8% simple interest from when the funds held in her account should have been released to when they were
- And, it should pay her a further £200 as compensation for the trouble and upset the delay caused her

My final decision

For the reasons given above, I've decided to uphold this complaint in part. I now direct

Nationwide Building Society to put things right as above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss Z to accept or reject my decision before 5 August 2022.

Ketan Nagla
Ombudsman