

The complaint

Mr M has complained that Nationwide Building Society registered a marker against him at CIFAS, the national fraud database.

What happened

Mr M opened a number of accounts with Nationwide. He repeatedly put these accounts into unauthorised overdrafts using “pay at pump” transactions. “Pay at pump” transactions are pre-authorised using one’s card and PIN before the exact amount of the payment is known. That means it’s possible to get payments approved that are larger than the balance of the account. In this case, there would usually only be £1 or so in the account – the minimum amount needed to get these transactions to go through.

For almost all of the accounts, Mr M left these unauthorised overdrafts unpaid. He confirmed that he was the one who’d used the accounts, and said he would have paid them back but he’d been in hospital for several months. He was unable to provide any evidence of his stay in hospital.

Nationwide closed Mr M’s accounts and registered a marker against him at CIFAS for misusing his facilities.

Our investigator looked into things independently and found that the marker was fair. Mr M asked for his case to be reviewed afresh, so the complaint’s 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.

In order to register this marker, Nationwide were not required to prove beyond all reasonable doubt that Mr M had done something wrong. They did need to have reasonable grounds to believe that he’d misused his accounts, which went beyond a suspicion or concern, and which had appropriate supporting evidence. Having carefully considered everything that both sides have said and provided, I think Nationwide did have sufficient grounds to register this marker. I’ll explain why.

Mr M confirmed that he was the one using these accounts, and he appears to have admitted that he made the payments in question. Further, the “pay at pump” payments would have been made using Mr M’s card and PIN. So I don’t think anyone else did this.

It is possible for someone to accidentally go into an unauthorised overdraft by making a “pay at pump” transaction. But Mr M did this over a dozen times, across seven different accounts, over a relatively short period. And he repeatedly did this by putting just £1 in the account – exactly the minimum needed to get the “pay at pump” transaction to work. A lot of the time, the account had just opened, so he definitely knew there was no more than £1 in it. Yet he forced these accounts into overdrafts by spending significant amounts on petrol, despite knowing that there were not such funds in the account.

So I am reasonably satisfied that Mr M deliberately made these transactions in this way.

In doing this, Mr M effectively forced Nationwide into paying for his petrol using their money instead of his own. And he used improper means to get credit that he was not authorised to have. He then left accounts unpaid. I appreciate that Mr M does not consider this fraud, but I’m afraid he’s mistaken. Exploiting “pay at pump” transactions in this way is a known type of fraud. And it was certainly a misuse of Mr M’s accounts. So it seems most appropriate that Nationwide registered a marker on the fraud database for misusing accounts.

Mr M said he was unable to repay the overdrafts because he was stuck in hospital for months. But he’s been unable to provide any evidence at all for this hospital stay, despite the fact that such evidence would be easy to get – even if he eventually discharged himself. And the activity on his accounts shows that during those months, he was actually out and about. So I don’t find this reason to be valid.

Lastly, Mr M argued that Nationwide were in the wrong for allowing him to open multiple accounts and force them into overdrafts. But the onus was on Mr M to refrain from defrauding Nationwide.

Taking everything into account, I think Nationwide acted fairly in registering this marker.

My final decision

For the reasons I’ve explained, I don’t uphold Mr M’s complaint in this case.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr M to accept or reject my decision before 20 July 2022.

Adam Charles
Ombudsman