

The complaint

Mr C complains that Nationwide Building Society refuses to refund a payment he made to an investment scam company.

What happened

In May 2020, Mr C used his Nationwide Visa credit card to pay £250 to Jubiter (a crypto exchange company), he sent his payment from Jubiter to experttrader.co.uk so that he could trade in Bitcoin. He says he quickly realised that experttrader.co.uk were not legitimate, so he requested a refund prior to beginning any trading activity. His contact was ignored and his trading account wasn't accessible. Mr C asked Nationwide for assistance with recovering his payment on 12 June 2020. Nationwide requested specific information from Mr C in August 2020 and he provided the documentation he had – which was an email chain of communication with experttrader.co.uk.

Nationwide sent a request for further specific information from Mr C in October 2020. Mr C complained to Nationwide and it issued its final response in February 2021. It concluded, amongst other things, that Mr C hadn't provided the specific information it asked him for and closed his dispute claim. Mr M referred his complaint to this office.

One of our Investigators reviewed the complaint. He was of the view that there was no reasonable prospect of success if Nationwide were to have processed a chargeback claim and the payment wasn't unusual to have required intervention from Nationwide. Mr C didn't agree and asked for the complaint to be reviewed by an Ombudsman. The complaint has therefore been passed to me for determination.

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 so, I don't uphold Mr C's complaint and I'll explain why.

Chargeback

The chargeback process is voluntary and run by the card scheme whereby it will ultimately arbitrate on a dispute between the merchant and customer if it cannot be resolved between them after two 'presentments'. Such arbitration is subject to the rules of the scheme — so there are limited grounds on which a chargeback can succeed or be deemed a 'valid claim'. Our role in such cases is not to second-guess the card scheme rules, but to determine whether the regulated card issuer (i.e. Nationwide) acted fairly and reasonably when presenting (or choosing not to present) a chargeback on behalf of Mr C.

Nationwide closed Mr C's dispute claim because it says it wasn't provided with the specific information it asked for. Whilst I think Nationwide tried to assist Mr C by considering a chargeback claim and requested evidence surrounding his inability to withdraw his funds – which Visa does allow dispute claims for, he ultimately received a service from Jupiter. This

service would have involved changing his £sterling into crypto before sending it to the wallet address he supplied them with. His disagreement is with experttraders.co.uk, not Jubiter. Nationwide could only have processed a chargeback claim against the recipient of Mr C's payment, which was Jubiter. I consider Mr C stood no reasonable prospect of success if Nationwide had processed a chargeback claim against Jubiter and so I don't think Nationwide acted unreasonably by choosing not to do so.

Fraud prevention

I don't think Nationwide could reasonably be expected to have prevented the payment Mr C lost. This is because at the time generally, banks and building societies were expected to process payments a customer authorised them to make. And under The Payment Services Regulations and terms and conditions of the account, Mr C is presumed liable for the loss in the first instance, in circumstances where he authorised the payment. That said, as a matter of good industry practice, Nationwide should have taken proactive steps to identify and help prevent transactions – particularly unusual or uncharacteristic ones – that could involve fraud or be the result of a scam. However, there is a balance to be struck: banks and building societies had (and have) obligations to be alert to fraud and scams and to act in their customers' best interests, but they can't reasonably be involved in every transaction.

I don't think the payment was particularly uncharacteristic or suspicious to reasonably say Nationwide shouldn't have allowed it through without first getting in touch with Mr C to check everything was in order. It was a single payment, to a legitimate company and it wasn't for a particularly large amount. I don't think Nationwide could reasonably have suspected that Mr C was falling victim to a fraud or scam.

This means that as Nationwide didn't interact with Mr C at the time of the payment – and I've concluded that I can't reasonably say it ought to have been *obliged* to have gotten in touch with Mr C about it – I'm satisfied Nationwide didn't unreasonably miss an opportunity to prevent the payment before it was sent.

My final decision

My final decision is, despite my natural sympathies for Mr C's loss, 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 16 September 2022.

Dolores Njemanze
Ombudsman