

The complaint

Mrs T complains about problems she's faced and the service she's been provided by Nationwide Building Society after it dealt with a claim for a transaction on her credit card.

Mrs T is represented in bringing her complaint, but for ease of reading I'll refer to all submissions as being made by her.

What happened

Mrs T tried to make a claim under Section 75 of the Consumer Credit Act 1974 for a payment on her credit card. The claim was declined and Mrs T's complaint about this and the service around it, were addressed by this service, which issued a final decision on the issues in 2021. But as a part of this, the ombudsman noted that Mrs T had raised an issue in relation to a data subject access request ("DSAR") which Nationwide hadn't had an opportunity to respond to and would need to before we were able to consider it.

Mrs T raised this with Nationwide and it responded in October and November 2021, saying that a call from February 2019 hadn't been provided because it couldn't find any record of the call in question. It asked for some specific information about the call to see if it could do any more to locate it.

Mrs T brought her complaint about this to our service, saying (in summary) that this call would prove that her claim under Section 75 would have been successful and that Nationwide hadn't considered her overall complaint about discrimination. Our investigator said that much of the complaint Mrs T was now bringing had been covered in the previous ombudsman's final decision and we couldn't look at those points again.

They did think we could look at the issues around the call being provided under the DSAR though. They said that in relation to this, Nationwide provided some contradictory information and should have noted the call and acted on information Mrs T provided about it to try and locate it. Our investigator also looked at whether Nationwide had discriminated against Mrs T in dealing with this matter. They concluded that it hadn't and that any mistakes made here were down to service failings rather than discrimination. For this they said that Nationwide should pay £100.

Mrs T disagreed in some detail, saying why the issues around this call and the call itself mean that Nationwide should now pay the Section 75 claim. So the matter has 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.

I'll start by reinforcing what our investigator has already said about the scope of this decision. This service has already fully considered Mrs T's complaint about the Section 75 claim she made and the issues surrounding this. The ombudsman's final decision was this

service's final word on that and we can't now look at any of these issues again.

Mrs T has explained that she feels this is a new complaint about not following her instructions properly and failing to handle complaints properly. But, as our investigator has said, our service has already decided on the issues around Mrs T's instructions and authorisation in respect of the dispute around her Section 75 claim and the relevant payment.

This leaves the issue around the DSAR and the call, along with the allegation of further discrimination that I can consider. So this decision will be quite short, which is in line with this service's role as a quick and informal service and the fact that the issues I need to decide are quite limited in scope. I realise Mrs T won't see things this way – but I want to reassure her that I've considered everything she has said and provided us in coming to this decision.

Having done so, I agree that Nationwide could have handled Mrs T's enquiry around the call and the DSAR better. It clearly hadn't noted the call on its systems, so wasn't able to locate this when Mrs T made her DSAR request. Then Nationwide told her on the one hand that she'd need to provide more information, but also suggested that it had searched for this anyway. Then when Mrs T provided further information, it then didn't do anything further. This would have been frustrating for Mrs T and caused her some distress and confusion.

But this isn't a reason that we can now look at the merits of Mrs T's claim under Section 75, or the surrounding issues in relation to this payment again. The ombudsman considered the content of the call, its bearing on the claim and the surrounding circumstances in their decision. Instead, I'm looking at the service elements that the other ombudsman hadn't considered and that Nationwide has now responded to. Taking into account the shortcomings in service here, I think it's fair that Nationwide compensates Mrs T and I think £100 is a fair and reasonable amount for the distress and inconvenience caused.

In terms of Mrs T's allegations around her being discriminated against – again the other ombudsman considered this point in relation to the circumstances of the complaint they decided, so I'm not looking at those issues again.

But I've carefully considered her comments in respect of the issues I can consider and I can see why Mrs T feels like this might be the case here. As I've said above, I think Nationwide has provided some poor service here and I don't think it's necessarily grasped how its actions have made Mrs T feel. But I haven't seen anything that makes me think that the service failings here can be linked to Nationwide discriminating against Mrs T in the way she says.

For example, I can see that Nationwide hasn't always responded to further correspondence from Mrs T, which includes her allegations of discrimination. I can see why that'll be frustrating. But in looking at both sides of this complaint, Nationwide clearly didn't think it'd be helpful to continue corresponding about matters that it felt had been resolved, both by it and by this service. That's a decision it's entitled to make and one I think it's made fairly here.

So, overall, I feel that paying £100 in recognition of the distress and inconvenience is a fair and reasonable way to resolve this complaint.

My final decision

My final decision is that Nationwide Building Society should pay Mrs T £100 for the reasons given in this decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs T to accept or reject my decision before 10 March 2023.

James Staples
Ombudsman