

The complaint

Mr T is unhappy Nationwide Building Society placed a block on his account and requested he provide further identification before he can use his account again.

What happened

Mr T holds a FlexBasic current account with Nationwide.

On or around 8 June 2022, Mr T received a payment into his account of £1,000. However, he discovered he wasn't able to access his account. So, he called into a Nationwide branch to find out what the problem was.

Nationwide told Mr T their records showed his account had been blocked and he needed to provide up to date identification for their files. They said their decision was due to the requirements of their regulator.

Mr T wasn't happy with Nationwide's explanation. He said they'd blocked his account without any warning or notice. Nationwide said they'd written to him on 9 June 2022 to explain why his account was blocked and detailing the information needed to provide so the restriction could be lifted. Mr T said he hadn't received any letters about their requirements before the restriction was applied.

Mr T was unhappy with Nationwide's actions. He said he wasn't willing to provide the identification they needed and wanted them to provide evidence of their regulator's requirements and proof they'd written to him about this.

Nationwide responded to Mr T's complaint in a letter dated 27 June 2022. They said their actions complied with the Wire Transfer Regulation. They said a breach occurs when a member is transacting on their account (specifically over €1,000 or equivalent in £GBP within a 7-day period) without sufficient identification on the system. They said they'd written to Mr T on 9 June 2022 to explain this. They didn't agree there'd been an error as this was a requirement of their regulator.

Mr T wasn't happy with Nationwide's response. So, he referred his complaint to this service. Having considered all the information available, our investigator didn't think Nationwide had done anything wrong and thought they'd been clear in explaining what had triggered the restriction on his account and what he needed to do to enable the restriction to be lifted.

Mr T didn't agree with our investigator's findings. He said Nationwide's letter had referred to a previous letter they'd sent before the block was applied. He said he hadn't received that which meant he was given no notice of the account block.

As an agreement couldn't be reached, Mr T's complaint has been passed to me to consider further. In doing so, I reached a different outcome to that of our investigator. Because of that, I issued a provisional decision on 12 January 2023 – giving both Mr T and Nationwide the opportunity to respond to my findings below before I reached a final decision.

In my provisional decision, I said:

Nationwide explained their decision and actions comply with the requirements of the Wire Transfer Regulation ("WTR").

The WTR ((EU) 2015/847) forms part of the UK's general Anti Money Laundering ("AML") rules and regulations. The UK left the EU on 31 January 2020 and the Trade and Cooperation Agreement ("TCA") was concluded on 24 December 2020. However, the Withdrawal Agreement 2019 continues to apply. It's also relevant that there have been no immediate changes to the AML framework for the UK since 31 December 2020. So, the WTR still applies.

The WTR sets out various responsibilities and requirements that payment service providers must comply with. And as Nationwide are a payment service provider, they are bound by those requirements. In particular the WTR says, *"In the case of transfers exceeding €1,000 ... before ... making funds available to the payee, the payment service provider of the payee shall verify the accuracy of the information on the payee ..."*. The WTR specifies how this should be done and includes specific requirements to identify the payee – in this case, Mr T.

The transfer received into Mr T's account was flagged by Nationwide's systems to check their records complied with the WTR. Unfortunately, that check showed they didn't hold sufficient identification on their files to ensure they complied. In order to comply with the WTR, Nationwide's process was to restrict Mr T's account until identification to meet the WTR was obtained.

Nationwide's records show they wrote to Mr T on 9 June 2022, the day after the funds were received. They explained that the account had been restricted and gave details of what Mr T needed to do to enable the restriction to be lifted. Mr T suggested their letter followed previous correspondence that he hadn't received. But I haven't seen any evidence to suggest Nationwide had previously written to Mr T about this. The letter was specifically prompted by the deposit received into his account. And as they wrote promptly and clearly explaining what was required, Nationwide appear to have acted swiftly and appropriately here.

Unfortunately, Nationwide's process meant Mr T didn't have access to the existing funds held on his account. Funds that Nationwide hadn't previously shown or expressed any concern about. Nationwide said they needed to comply with the requirements of the WTR. These specify actions they must take *"before crediting"* Mr T's *"account or making the funds available"* to him.

I asked Nationwide to explain why they weren't happy to allow Mr T access to the funds already held on his account and whether the £1,000 received could've been ringfenced rather than blocking the account completely. In response, Nationwide said, their *"infrastructure does not allow the targeting of specific payment(s) that will cause this breach, therefore, to ensure Nationwide meets it's (stet) legal and regulatory requirements the account was blocked in its entirety"*.

It isn't the role of this service to ask a business to alter its policies and procedures or impose improvements on the level of service offered to their customers. These aspects fall firmly within the remit of the regulator – in this case, the Financial Conduct Authority (FCA).

But it is our role to examine and decide whether Nationwide have been fair and reasonable in the manner in which those policies and procedures are applied in the individual circumstances of Mr T's experience with them, taking into account the relevant rules and regulations where they apply.

I've thought carefully about Nationwide's actions here and whether they should've reasonably done anything more to minimise the impact on Mr T. Accepting their own infrastructure restrictions, I think they should've done more to help and support him, still ensuring they complied with the requirements of the WTR and at least ensuring Mr T still had access to his existing funds. By applying their own policies and procedures rigidly here, I think this led to Mr T being treated unfairly.

In conclusion, I don't believe Nationwide's requirement for up-to-date identification from Mr T was unreasonable. They have a responsibility to ensure they comply with the overriding regulations and rules at all times. But I also believe Nationwide should've done more to help Mr T in accessing his existing funds. And because of that, I intend to uphold Mr T's complaint.

I've gone on to think about the impact Nationwide's actions had on Mr T. In speaking to our investigator, Mr T explained he was desperate for money. And because he couldn't access his account, there was some planned discretionary expenditure he couldn't make.

Mr T hasn't made any suggestion that he was unable to meet day to day living expenses. But I do appreciate his experience would have been frustrating and distressing. Not least because he was unable to access funds as and when he required. For that reason, I intend to ask Nationwide to compensate Mr T for this.

Despite being made aware of Nationwide's requirements, Mr T told our investigator he didn't want to provide identification on principle. He thought they should lift the account restriction first whereupon he would provide the requested identification. I do appreciate Mr T's frustrations here. But I also think it was within his control to resolve matters sooner ensuring Nationwide could lift his account restriction. So, I've reflected this in the award I intend to propose.

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 responding to my provisional decision, Mr T thought the compensation proposed wasn't enough and didn't take into account various issues he thought hadn't been addressed.

In particular, Mr T said:

- he'd heard no more from Nationwide about his complaint;
- he wasn't happy about his interactions with Nationwide, particularly as branch staff weren't able to explain why his account had been blocked to his satisfaction;
- Nationwide's actions had caused distress for the originator of the payment he'd received;
- previous similar transactions had not been challenged suggesting Nationwide's own processes were inconsistently applied;
- Nationwide took six weeks to respond to his complaint; and
- Nationwide should've warned him before blocking his account.

Mr T also feels suspicious about Nationwide's requirements and procedures here.

Nationwide asked for more time to consider my findings on several occasions. But, as yet they've still not provided any additional comments or evidence. And given the time that's now elapsed since my provisional decision, I think it's only fair and reasonable that Mr T receives a final decision regarding his complaint.

In my provisional decision, I said that Nationwide had issued a final response to Mr T's complaint on 27 June 2022, after which Mr T referred his complaint to this service. In that response, they asked Mr T to visit his local branch to provide confirmation of his identity so that the blocks can be removed. So, whether or not Mr T agreed with the outcome of his complaint, I think it was clear what he needed to do next to ensure he could access his account going forward. I don't think Nationwide were necessarily required to discuss Mr T's

complaint further with him before this service had completed investigations. So, I can't reasonably say that Nationwide did anything wrong by not responding further to Mr T's complaint. They'd already made their position clear.

I've already explained the reasons why Nationwide withheld the funds they received and blocked Mr T's account. Their process was intended to meet the requirements of the WTR. Nationwide's actions were triggered by the payment received. And because of that, they wrote to Mr T to explain their requirements on 9 June 2022, the day after the payment was received. As I said in my provisional decision, I agree Nationwide needed to comply with the WTR and I also think Nationwide acted fairly and swiftly by writing to him the following day. I don't agree Nationwide were required to give Mr T advance notice of their actions. They wouldn't have known the payment was due into his account before it was actually received.

As regards previous transactions, I can't comment on those as they don't form part of Mr T's original complaint. But as I've already explained, on the basis these weren't previously flagged and Nationwide showed no previous concerns, I don't think it was fair that they blocked access to funds already held for Mr T.

On a final point, while I understand and appreciate that the originator of the payment to Mr T may well have been distressed and concerned as a result of Nationwide's actions, because they aren't party to Mr T's account or his complaint, I'm unable to consider that aspect. They aren't an eligible complainant within the context of Mr T's complaint.

Summary

Having considered Mr T's response to my provisional decision very carefully, I've not seen anything that persuades me to vary from my original findings. So, I won't be changing the outcome I previously proposed. If he hasn't already done so, I would urge Mr T to provide Nationwide with the necessary identification documentation so that the restricted funds can be released to him.

My final decision

For the reasons set out above, I uphold Mr T's complaint.

I require Nationwide Building Society to pay compensation to Mr T of £100.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 22 March 2023.

Dave Morgan
Ombudsman